

06.04.2026
Item no. A.146
Court no. 30
g.b.
266012

**CO 3632 of 2022
With
CAN 1 of 2025**

**Gora Chand Nandan
Vs.
Dipika Dey**

Mr. Abhirup Chakraborty
Mr. Tuhin Ganguly
..... For the Petitioner

1. Written notes filed by the petitioner be kept with the record.
2. The writ application has been preferred challenging an order no. 34 dated 22.09.2022 passed by the learned Additional District Judge, 1st Court, Hooghly, Chinsurah in Act 39 Case No. 4 of 2015 renumbered as Probate Suit No. 2 of 2016.
3. Vide the impugned order, the learned trial court has rejected the petitioner's application under Section 65 (f) of the Evidence Act. The said application was filed by the petitioner before the trial court for proving the certified copy of the will, on the ground that the original will which was in the custody of the testator could not be traced out.
4. Admittedly, the petitioner did not lodge any police complaint for the missing will and as such it cannot be finally concluded that the original will

has actually been lost. The petitioner herein has to first take the help of legal process for tracing out the original will and then proceed accordingly.

5. The application 65 (f) of the Evidence Act is thus premature considering that it has not been proved that the original will has been lost.
6. The trial court has rightly relied upon the judgement of the Hon'ble Supreme Court in the case of *Appaiya Vs. Andimuthu @ Thangapandi & Ors.* reported in [2023] 12 SCR 525:2023 INSC 835 in this matter and the impugned order also calls for no interference at this stage, considering that the application was premature.
7. The civil revision is thus disposed of.
8. There shall be no order as to costs.
9. All connected applications, if any, stand disposed of.
10. Interim order, if any, stands vacated.
11. Urgent photostat certificate of this order, if applied for, be supplied to the parties on urgent basis after completion of all necessary formalities.

(Shampa Dutt (Paul), J.)