

C.O. 3730 of 2022

30.06.2026

Sl no. 14

Ct no. 2

P.M.

Pratul Chandra Baral

- Vs -

Triveni Yadav & Ors.

Mr. Gopal Chandra Ghosh, Sr. Adv

Ms. Sunandana Saha

... for the petitioner.

Mr. Rwitendra Banerjee

... for the opposite party No. 1

1. Present petition has been filed challenging the order date 31st August, 2022 passed by Appellate Court in Title Appeal No. 53 of 2015 whereby the learned Appellate Court dismissed the application for exemption from filing the document which are not in the custody of the respondent. This application was rejected by the learned Appellate Court with a direction to the petitioner/respondent/plaintiff to submits all exhibited documents which had been exhibited in the lower court. Learned appellate court further inter alia directed the if documents are not filed the appeal will be disposed of without the same.
2. I have heard the learned counsel for the parties. Perusal of the order dated 22nd August, 2019 passed by learned Trial Court indicates that

pursuant to the directions of the appellate court that there were total ten exhibited documents which included exhibit 1 – 6 as deeds and exhibit 7 and 7(1) are the Government rent receipts. It has been stated at bar during the course of submission that exhibit 8 – 10 are also deeds. Perusal of the certified copy of the order No. 80 passed by learned Trial Court dated 27th September 2013 indicates that exhibit 1 to 4 were returned to the plaintiff/respondent /petitioner by the learned Trial Court.

3. It is pertinent to mention that the exhibit 1 to 4 and two un-exhibited documents were filed through firisti before the learned appellate court by the petitioner/respondent/plaintiff on 27th March, 2019.
4. The order dated 13th August, 2019 passed in Title Appeal No. 53 of 2015 also indicates that exhibit 7, 8 and 10 were forwarded before the appellate Court by the learned Trial Court.
5. The perusal of the order dated 22nd August, 2019 passed in T.S. No. 392 of 1992 would also indicate that Exhibit 9, i.e., certified copy of a deed was duly traced out. Thus the only missing documents remain to be 5, 6 and 6(1).

6. The plea of the learned counsel for the petitioner/respondent/plaintiff that he is not in possession of these documents and has no means to produce the same.
7. Learned senior counsel submits that he got back only four documents as per order No. 80 dated 27th September, 2013 and the same were duly returned as indicated in order of the learned appellate court dated 13th August, 2019. Learned senior counsel submits that remaining documents must have been either with the record or have been mis-placed.
8. In the circumstances of this case and on perusal of the record the Court considers that the petitioner/respondent/ plaintiff cannot be burdened with the responsibility of filing the documents exhibit 5, 6 and 6(1) without fixing the responsibility
9. Learned Principal District Judge, Barasat is directed to conduct time bound inquiry to trace out the documents exhibit 5, 6 and 6(1) in Title appeal No. 392 of 1992 and also initiate an enquiry for fixing the responsibility. However, such proceeding should be concluded within eight weeks.

10. In case such documents are not traceable the learned Appellate Court may take assistance of the learned counsel for the parties and proceed with the reconstruction of the matter.

11. With this observation this petition stands disposed of.

12. Urgent Photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all usual requisite formalities.

(Dinesh Kumar Sharma, J.)