

Misc Case No.593 of 2013 CIS No.27018 of 2014

Order dated 18.01.2023 :

Today is fixed for filing affidavit of assets and liabilities by the O.P and argument.

Both the parties are present by filing their respective haziras.

One petition is preferred by the O.P before the Court there by praying for allowing one opportunity to adduce evidence.

Heard submission of Ld. Advocates of both the parties.

The brief fact of the petition filed by the O.P is that this case was fixed for OPW1 as last chance on 24.11.2022 but it was found that no affidavit of assets and liabilities has been filed by the O.P and on the basis of the said reason the O.P prayed for further time. However, the prayer for adjournment preferred by the O.P was rejected and the evidence on part of the O.P was closed. It is further submitted by the O.P that if he is unable to adduce any evidence in this case, he will suffer irreparable lost. On the basis of the above statements, the O.P has prayed for modification of the order dated 24.11.2022 and has further prayed for allowing him to adduce evidence on his part.

Ld. Advocate for the petitioner raised vehement objection against the instant petition and submitted before the Court that the O.P has been allowed several opportunities to adduce evidence but the O.P has prayed for time on frivolous grounds. The Ld. Advocate for the petitioner prayed for rejection of the prayer of the O.P.

After scrutiny of the record it is well apparent before the court that the evidence on part of the petitioner was closed on 03.03.2020 and on 20.05.2020 the date was fixed for OPW. However, due to pandemic situation the subsequent few dates were adjourned. Thereafter, on 22.04.2022 the date was fixed for OPW but the O.P filed a petition praying for adjournment. The prayer for adjournment was allowed as last chance and on 23.08.2022 again the O.P prayed for adjournment. Thereafter, on 24.11.2022 the O.P repeatedly

prayed for adjournment due to which the prayer of adjournment of O.P was rejected and the case was fixed for argument. On subsequent date I.e on 16.12.2022 the petitioner filed affidavit of assets and liabilities but the O.P again prayed for time.

In view of the above discussion it is well apparent that the O.P has been allowed several opportunities to adduce evidence as well as to file affidavit of assets and liabilities but on every occasion excluding the pandemic situation, the O.P prayed for adjournment on frivolous grounds. However, if the O.P is debarred from adducing evidence, he will suffer loss and will not be able to prove his contention made in the written objection. Therefore, considering all the aspects the prayer of the O.P for adducing evidence is allowed but subject to cost of Rs.1200/- to be paid by the O.P in favour of the petitioner.

Fix 23.02.2023 for payment of cost by the O.P, evidence of OPW and filing of affidavit of assets and liabilities by the O.P i.d argument.

D/C

J. M. 4th Court
Howrah.

