

Misc. Judicial (LA) 25 of 2005

Order no. 69 dated 16.06.2016.

Petitioner/Claimant files hazira through ld. adv. while Respondent/L.A Collector is represented by Ld. G.P

Today is fixed for further hearing on law points regarding petition dt.24.09.15 filed by petitioner for analogous hearing of this case with Misc. Judl.(LA) 7/2005 and W/O.

Ld. adv of petitioner submitted that this case also be heard analogously with Misc. Judl. (LA) 7/2005 as plot nos., mouzas are identical.

Ld. G.P opposed by saying that applicants are different in this case and to that of Misc. Judl.(LA) 7/2005.

On perusal of the record I find that applicant in this case is Mukul Chakraborty who is not the applicant in Misc. Judl.(LA) 7/2005. Petitioner submitted his affidavit-in-chief on 23.07.2008. However, petitioner was never tendered although cross-examination date fixed and while this case is in this stage, the instant petition for analogous hearing was filed on 24.09.15 which is heard today.

The argument of ld. adv for the petitioner that the plot nos. and mouzas being identical in the two cases should be heard analogously does not hold water as the applicants are different and one can not stand upon the document and evidence of others. Moreover, affidavit-in-chief has already been filed which suggests the proceedings to have begun.

That being the position clubbing of this cases will ensue miscarriage of justice and so the petition dt. 24.09.15 is liable to be rejected.

Hence, it is

Ordered

that the instant petition dt.24.09.15 is rejected on contest without cost.

As there is no other interlocutory petition pending so the case be fixed for tendering of petitioner and cross-examination.

To 22.08.2016 for tendering of petitioner and cross-examination.

Dict. & Corrected by me,

Sd/- D Datta
Judge, L.A. Tribunal.
ADJ, 1st Court, Jalpaiguri.

Sd/- Debasish Datta
Judge, L.A. Tribunal
Addl. District Judge,
1st Court, Jalpaiguri.