

O.S. 39 of 2015

Order No. 34
Dated. 20.04.2018

Today is fixed for payment of cost and service of summon upon the witness.

Ld. advocate for the petitioner filed one money receipt against the payment of cost of Rs. 1000/- to the respondent. Ld. advocate for the petitioner also filed one petition for issuing warrant of arrest against witness Sukumar Das. Ld. advocate for the respondent files hazira.

Record is taken up for hearing of petition for issuing warrant of arrest against witness Sukumar Das filed by the petitioner.

Ld. advocate for the petitioner several times summon has been issued against attesting witness Sukumar Das for deposing before this court but inspite of receiving of the summon, this witness avoided come before this court. Further more, an application for commission for taking the evidence at the house of the witness was also filed but was rejected. This witness is very important to prove the petitioner's case as such to bring this witness before this court, W/A may be issued against him.

Ld. advocate for the respondent submits that it is the duty of the petitioner to bring the witness and prove his case. If the witness is not interested then in the civil matter there is no provision of issuing W/A against the witness to prove the contention of the petitioner. Moreover, if this witness is not interested to come before this court to support the petitioner's case then by bringing this witness under arrest will also not serve that purpose. Therefore, the instant Ld. advocate for the respondent prays for rejection of the petition filed by the petitioner with cost.

Heard the submission of both sides and after perusing the material on record I find that this witness was serve with the summon on several occasion. This witness also duly received the same but inspite of that he did not turn up before this court to support the petitioner's case. In civil case, it is the duty of the petitioner to prove his case by producing his witnesses before the Ld. Court. If the witnesses not willing to come before this court, then court cannot compel that person to adduce his evidence against his will. In the present circumstances I do not find any reason to allow the instant petition and issue warrant of arrest against witness Sukumar Das. Therefore, the instant petition is hereby rejected without any order as to cost.

Fix 29.05.2018 for further evidence of petitioner's witness I/D close.

D/c

Additional District Judge,
2nd Court, Bongaon, North 24 Parganas