

Misc. Case 241 of 2018

WBPS01-001089-2018

[under Section 47 of the C.P.C.]

Before: Smt. Sudipa Banerjee, Ld. Judge, 3rd Bench

Order No: 64

Date: 19-03-2024

Today is fixed for further cross examination of O.P.W.-1.

Petitioners file fresh vokalatnama and a petition for adjournment on the grounds stated therein.

Opposite party files a petition seeking an order to close the evidence of the O.P.W. -1 Sri. Ashim Sur recorded earlier on the grounds stated therein. Copy served.

Instant petition filed by the opposite party this day is taken up for consideration.

Heard Ld. Advocate for the opposite party. Perused the petition and materials on record.

Considered.

By the instant petition, opposite party has contended that, Sri. Ashim Sur, the present shebait of the decree holder/ opposite party has adduced evidence in the present Misc. Case as O.P.W.-1 and the cross examination has not been concluded yet. The said Sri. Ashim Sur is a very old person and presently suffering from various ailments and unable to adduce any further evidence. In view of such circumstances, opposite party has prayed for an order to close the evidence of O.P.W.-1.

On careful perusal of the case record it appears that, on 08.12.2023 opposite party had filed an affidavit in chief with regard to the Misc. Case under Section 47 of the C.P.C and evidence of the said Misc. Case had started and the cross examination was conducted in part. Today, opposite party has come up with the instant application for closure of the above mentioned evidence on the grounds of ill health of the O.P.W.-1.

contd....

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Therefore, considering the above mentioned facts and circumstances, this Court is of the view to allow the prayer of the opposite party at his own risk. Moreover, petitioner will not be prejudiced in any way if, the said prayer is allowed. In support of contention made in the petition, opposite party has filed medical documents and a resolution showing appointment of Sri. Prodip Kumar Sur as shebait and to represent the decree holder/petitioner in Court. The petition is also supported by an affidavit. Accordingly, it is

O R D E R E D

that, the petition filed by the opposite party this day is hereby allowed at the risk of the opposite party.

Examination in chief as well as cross examination of O.P.W.-1 Sri. Ashim Sur is hereby closed.

Opposite party is at liberty to adduce further evidence in the Misc. Case.

Petitioner's prayer for adjournment is considered and allowed.

Fix **10-06-2024** further O.P.W. in the Misc. Case.

Sudipa Banerjee
[J.O. Code: WB01148]
Judge, 3rd Bench
Presidency Small Cause Court,
Calcutta