

**T.S.- 20/2015 (R.133/15)**

**(Analogous with T.S.20A/15)**

**Order no.176 dated 10.01.2020**

Both parties file hazira. Today is fixed for hearing of the plaintiff's application dated 19.11.2019. Heard both sides. Perused the application, written objection filed by the defendant, as well as other materials on the record. Considered.

The plaintiff has prayed for recalling order no.173 dated 28.08.2019 and to give opportunity to OPW1 to depose, as the same is necessary for determination of the dispute. The plaintiff has also contended that due to misunderstanding and mistake he could not appear on the witness box, though affidavit in chief filed by him earlier is on the record.

The plaintiff by filing written objection has raised objection against the prayer and contended that the petition is not maintainable, that the plaintiff was reluctant to adduce evidence though availed several opportunities, and this court after appreciating the position of the record has rightly passed the order fixing the date for argument.

Vide order no.173 dated 28.08.2019, evidence in the matter of proceeding under section 7(2) WBPT Act was closed after considering the entire materials on the record and the conduct of the plaintiff and his failure to get ready for adducing further evidence of OPW1.

Inherent power under section 151 CPC may be exercised to correct any mistake or error on the part of the court, or to recall an order

obtained on practicing fraud upon the court. But the plaintiff has not alleged any such ground for recalling the order. There is no such power to reconsider or review its own order, and the inherent power cannot be invoked as a substitute for appeal, review or revision.

Considering the above, this court is of the view that it has no jurisdiction to recall its order no.173 dated 28.08.2019. When this court after considering the entire materials on the record has closed the evidence in exercise of its discretion, inherent power cannot be invoked to recall such an order, as the same would amount to exercising the power and jurisdiction of the Revisional Court. Hence, the application filed by the plaintiff on 19.11.2019 is rejected on contest, without cost.

Fix 12.02.2020 for hearing argument u/s.7(2) WBPT Act.

Typed by,

Civil Judge (Sr. Divn.),

Civil Judge (Sr. Divn.),  
S.C.C., Sealdah.

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