

Party Name : PUSPA RANI PAUL Vs DILIP KR. SAHA & 4 ORS.

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THE HONBLE MR. JUSTICE S.C.DAS

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Heard learned counsel Mr. D. R. Chowdhury for the petitioner; learned Sr. counsel Mr. A.K. Bhowmik for the DH-respondent No.1; learned counsel Mr. S. Bhattacharjee for respondent-JD No.2 and learned Sr. Advocate Mr. D. Chakraborty for the legal representatives of deceased respondent-JD No.5.

Other respondent-JDs have chosen to remain absent in spite of service of notice.

Title Suit No. 30 of 1984 instituted by DH- respondent No.1 Dilip Kumar Saha was decreed on 29.09.1999 against Srinibas Paul (since deceased), his son Sridam Pal and another Gouranga Pal. Srinibas Pal has died leaving behind his son, the respondents-JD Sridam Pal, his two daughters namely Uma Paul and Rama Paul and his wife Puspa Rani Pal. After the death of Srinibas Pal, his son Sridam Pal was already on record and his two daughters Uma Paul and Rama Paul and wife Smt. Puspa Rani Pal were added as respondents-JD in the Execution petition. The DH- respondent No.1 Dilip Kumar Saha instituted Execution (T) 07 of 2009 seeking execution of the decree of T.S.30/1984. Notices were served on all the JDs and the records of the Execution case shows that notices of JD Nos. 1 to 4 were served on JD No.1 who received the same on behalf of all the JDs being the JD Nos. 2 and 3 are his sisters and JD No.4 is his mother.

The present revisional application is filed under Article 227 of the Constitution by JD No.4 Puspa Rani Paul who is the mother of JD Nos. 2 and 3 Uma Paul and Rama Paul and JD No.1 Sridam Paul raising the point that notices of the Execution case were not properly served on JD Nos. 2 and 3 i.e. Uma Paul and Rama Paul in their address. It is contended in the petition that an objection was filed before the Execution Court contending that the notices were not served on JD Nos. 2 and 3 in their place of address and so Execution case should not proceed. That petition was rejected by impugned order dated 28.07.2011.

I have meticulously gone through the impugned order. The learned Execution Court clearly observed that notices were properly served on JD Nos. 2 and 3 Uma Paul and Rama Paul. It is also mentioned in the order that the Execution proceeding has advanced to a certain extent and at this stage, the objection has been filed without having any basis. On perusal of the record, I find that notices were sent to those JDs Uma Paul and Rama Paul and those notices were received by their brother Sridam Paul in the address given in the Execution petition. Rama Paul and Uma Paul did not turn up even after receipt of notice in this revision case.

A revisional application under Article 227 of the Constitution is considered on the point of want of jurisdiction, errors of law, perverse finding or gross violation of natural justice. In the present case, I find nothing of the sort. Notices were sent to the JDs Uma Paul and Rama Paul and the notices were received by their full blood brother Sridam Paul on their behalf in the address given in the Execution petition. So, they would appear in the Execution Court and take appropriate step. The JD No.4 Smt. Puspa Rani Paul, the mother of Sridam Paul, Uma Paul and Rama Paul has filed the present revisional application to interfere in order dated 28.07.2011 passed by the Execution Court.

I find no merit in the revisional application and hence, the revisional application stands dismissed.

Send back the L.C. records along with a copy of this order.