

16.01.2023

Sl. No.07.

List – D/L

Mithun

Ct.No.42

SA 584 of 1993

With

CAN/2/2013(Old No: CAN/6959/2013), CAN/3/2022

Ajit Kr. Das

Vs.

Minor Nirman Ghosh

Mr. Abhijit Ray, Adv.

Mr. Shubham Gupta, Adv.

... for respondent/applicant.

Though the instant application is captioned as ‘recalling of the order’ dated 10th July, 2019 passed by this Court in S.A. No.584 of 1993, this is practically in the nature of review.

It is submitted at the outset by the learned Advocate for the appellant/opposite party that the instant review is hopelessly barred by limitation. However, this Court is not inclined to accept such submission in view of the decision of the Hon’ble Supreme Court in *Suo moto* Writ Petition (Civil) No.3 of 2020 wherein it is clearly observed:-

“2. In cases, where the limitation would have expired during the period between 15th March, 2020 till 14th March, 2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15th March, 2021. In

the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply.”

The present petitioner has prayed for review of the judgment passed by this Court on 10th July, 2019 on the ground that the petitioner purchased undivided share in respect of the premises No.23, P.N. Chakraborty Lane and therefore, without partition he cannot be evicted even from the portion which is under the ownership of Ajit Kumar Das.

The judgment dated 10th July, 2019 clearly stated the story as to how premises No.23, P.N.Chakraborty Lane was partitioned amongst its owners. It is also held that the plaintiff No.1 relinquished his name for vacating of the respondent after execution of agreement for sale with the original tenant in respect of his allotted share in the premises in suit.

Therefore, the decree passed by this Court by virtue of the judgment in S.A.584 of 1993 is executable in respect of Lot- ‘A’ property only as described in the judgment of the aforesaid appeal.

Therefore, I do not find any merit in the instant application and accordingly, the instant application is dismissed on contest.

(Bibek Chaudhuri, J)