

17.12.2020

C.O. 336 of 2019

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Gopal Bhattacharjee & Ors.

-vs-

Hari Krishan Prasad & Ors.

Mr. Avijit Ray

.....for the Petitioners/Decree Holder.

Mr. Aniruddha Chatterjee

.....for the opposite parties.

The decree holder has filed the instant application under Article 227 of the Constitution of India challenging the order dated January 7, 2019 passed by the learned 2nd Judge, Small Causes Court, Calcutta in Misc. Case No. 4 of 2019 arising out of Ejectment Execution Case No. 25 of 2017.

The petitioner has challenged the aforesaid order on two fold grounds. Firstly that even after the petition under Order 21, Rule 100, 101 of the Code of Civil Procedure was allowed to be amended, no copy of the amended application was served upon the decree holder. Such grievance can be redressed by directing the opposite party no. 2, namely, Dhanonjay Sharma to serve a copy of the amended application.

Accordingly the opposite party no. 2 is directed to serve a copy of the amended application upon the learned Advocate for the decree holder by December 21, 2020.

The second ground of challenge to the said order is that though the learned court below fixed January 28, 2019 for hearing of the stay application, the stay application has not yet been heard out.

It has been submitted by Mr. Ray that no copy of the application for stay has been served upon the decree holder. Without venturing to ascertain as to whether the stay application has been served upon the petitioner herein, the opposite party no. 2 is directed to serve a copy of the application for stay upon the learned Advocate for the decree holder by December 21, 2020.

Since the application for stay is pending from January 2019, the learned Judge of the Executing Court is requested to take up the hearing of the application for stay on the next date fixed and make all endeavours to dispose of the same as expeditiously as possible and preferably within two months from the next date fixed without granting any unnecessary adjournment to either of the parties.

The decree holder is granted liberty to file objection against the application for stay by January 6, 2021.

C.O.336 of 2019 is disposed of with the aforesaid directions.

Urgent photostat certified copy of this order, if applied for, be given to the parties on

priority basis upon compliance of all formalities.

(Hiranmay Bhattacharyya,J)