

S/L 5
20.10.2020
Court No.10
SD

**C.O. 929 of 2020
(Via Video Conference)**

Sraddhananda Basu
Vs.
The Land Acquisition Collector

Mr. Saptansu Basu
Mr. Ayan Banerjee
Mr. Arindam Chatterjee
Mr. Souma Choudhury

...for the Petitioner.

Mr. Soumitra Bandyopadhyay

...for the Opposite Party.

This revisional application is challenging an order dated February 15, 2020 passed in L.A. Execution Case No.1 of 2019 arising out of L.A. Misc. Case No.7 of 2016 pending before the learned Additional District Judge, First Court at Hooghly Sadar.

By virtue of this order, an execution proceeding filed by the petitioner herein has been stayed as the decree-holder (petitioner herein) had preferred an appeal against the award of compensation passed by the Court.

Mr. Saptansu Basu, counsel appearing on behalf of the petitioner, relies on *A&J Main & Co. Engineers Pvt. Ltd. vs. State of West Bengal* reported in (2006) 4 CHN 178 to indicate that an appeal for enhancement of an award creates no hindrance in execution of a money decree just because the decree-holder has preferred appeal for enhancement of the said amount.

Mr. Soumitra Bandyopadhyay, counsel appearing on behalf of the opposite party, submits that a cross-appeal has also been filed by his client along with a Section 5 application. Both the Section 5 application and appeal are pending. He fairly submits that no stay has been obtained in that appeal by the opposite party.

In light of the above submission, it is clear that there is no stay of the award. Furthermore, the reasons for staying the execution proceedings by the learned Additional District Judge is clearly a wrong ground for such stay.

In light of the judgment cited by the petitioner herein, I am of the view that the impugned order is required to be set aside with a direction upon the learned Additional District Judge to continue with the execution of the award unless a stay is obtained from the High Court.

With these observations, CO 929 of 2020 is disposed of.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)