

S/L 9
15.12.2020
Court. No. 19
GB

C.O. 1062 of 2020

Pradip Bose
Vs.
Smt. Maya Rani basak & Ors.

(Through Video Conference)

Mr. Tarak Nath Halder

...for the Petitioner.

This is an application filed by the plaintiff/petitioner in Title Suit No.366 of 2011 pending before the learned Civil Judge, Junior Division, 2nd Court at Sealdah, District 24 Parganas (South).

The petitioner is aggrieved by the repeated adjournments granted by the learned court below allowing the defendants/opposite parties time to deposit Advocate Commissioner's fees. It is submitted on behalf of the petitioner that the written statement had not been filed for a long time and the suit was fixed for ex parte hearing. Thereafter, the written statement was filed and upon recalling of the order fixing the suit for ex parte hearing, the learned court below accepted the written statement. Once the evidence of P.W.s was closed and the evidence of the defendants had started after a lapse of sometime, the defendants filed an application for examination of D.W.1 on commission. By an order dated June 28, 2019, the application filed under Order 26, Rule 1 of the Code of Civil

Procedure dated June 18, 2019 for examination of D.W.1 on commission was allowed. Thereafter, on three occasions the defendants did not deposit the commissioner's fees and as such the matter was adjourned and kept on dragging. The suit was filed in 2011. This is a suit for eviction of licensee. It appears that the petitioner has also filed an application for recalling of the order dated June 28, 2019. It is submitted by the learned advocate for the petitioner that steps for withdrawal of the said application will be taken in the learned court below. It is further submitted that, unless the learned Advocate Commissioner's fees are deposited by the defendants, the learned Advocate Commissioner shall not be able to hold the commission and file a report and the suit will continue to drag endlessly.

This Court appreciates the agony of the plaintiff and disposes of this application with an expectation that the learned court below will take serious steps so that the defendants do the needful and the commission is held expeditiously. Thereafter the suit be heard and disposed of within a period of eight months from date of receipt of the commissioner's report.

Needless to mention that this Court has not gone into the merits of the claims of the parties. The learned court below will decide the matter independently. This order is being passed only to ensure expeditious disposal of the suit.

The petitioner is directed to serve copies of this revisional application along with server copy of this order upon the opposite parties within a week from date.

The revisional application is disposed of.

There will be, however, no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)