

08th October, 2020

C.O.1263 of 2020

AK

(Via Video Conference)

Shri. Jagadish Kayal & Ors.

-vs-

Shankar Halder & Ors.

Mr. Pankaj Halder

.....for the petitioners

The petitioner is aggrieved by the inordinate delay in the conduct and hearing of a suit for eviction filed by the petitioner against the opposite parties / defendants in the suit. The suit was filed in 2011. The suit is presently pending before the First Additional District Judge, Junior Division, Diamond Harbour.

Learned counsel appearing for the petitioner complaints that despite an order of status quo passed by the learned court below on 25th April, 2017 in an interim application filed by the petitioner / plaintiff by which the parties were directed to maintain status quo in respect of the nature and character of the suit property. A subsequent application filed by opposite party for repairing the structure of the property was allowed by an order of 1st February, 2018. An Advocate Commissioner was appointed for conducting the repairing.

Counsel places an order dated 25th August, 2020, passed by the Executive Magistrate in M.F.734 of

2020 in an application filed by the opposite party by which the petitioner was restrained from causing hindrance to the repairing of the shop by the opposite parties. Counsel submits that the next date of hearing in the title suit has been fixed 11th December, 2020 and that numerous adjournments have been given by the learned court below in the said suit.

The affidavit-of-service is kept on record.

On hearing learned counsel appearing for the petitioner, this court is of the view that a Title Suit instituted in 2011 should not have been allowed to drag on for nine years. Second, when there is already an order of status quo passed by the learned court in seisin of the matter, the Executive Magistrate could not have passed any further orders in respect of the same parties and the same subject matter on 25th August, 2020.

On considering the relevant documents this court is of the view that the petitioner should be allowed to have a judgment, either way, in the suit instituted by him in 2011.

C.O. 1263 of 2020 is disposed of with a direction on the learned First Court, Civil Judge (Junior Division), Diamond Harbour to hear and dispose of T.S. No. 47 of 2011 as expeditiously as possible and preferably within a period of three months from date subject to the constraints caused by the Pandemic. Since the learned Court below is hearing the matter, the

parties should be restrained from approaching any other authority for orders in respect of the same subject matter between the same parties.

(Moushumi Bhattacharya, J.)