

C.O. No. 1328 of 2020

(Via Video Conference)

**Smt. Uma Das Mahapatra
Vs.
Sri Somnath Ghosh & Ors.**

Mr. Tanmay Mukherjee

..for the Petitioner

Perused the material papers and the pleadings in this application seeking issuance of directions. Having regard to the nature of order being issued hereunder, issuance of notice to the respondents is dispensed with, preserving their right to seek rehearing of this matter if they are aggrieved by the directions contained herein.

2. Title Suit No. 180 of 2008 was instituted inter se the respondents to this application. That suit was dismissed. The plaintiff filed an appeal as Title Appeal No. 57 of 2010 before the Civil Judge, Sr. Division 1st Court at Howrah. Pending that appeal, the petitioner herein, who claims to be a co-sharer in the suit property, filed an application invoking Order 1 Rule 10 (2) of the Code of Civil Procedure and sought impleadment in the appeal. The Appellate Court allowed the application and directed the appellant plaintiff to carry out the impleadment and to serve a copy to the appeal memorandum on the impleaded party, namely the petitioner herein.

3. The complaint of the petitioner is that, in spite of repeated postings of the appeal, he has not been served

with copy of the memorandum of appeal and thus that Title Appeal No. 57 of 2010 and Title Suit No. 180 of 2008 from which the aforesaid appeal arose are unnecessarily being dragged on.

4. Though we are facing a pandemic situation there is no complete halt to every system. Activities have to go on within available limits and limitations, taking requisite protective covers. Pandemic cannot be made an excuse to merely drag on proceedings. By making these observations, I intent to alert the Court below where Title Appeal No. 57 of 2010 is pending to ensure that directions contained in the order dated 12.06.2019 are carried out urgently. That will consequentially lead the ripening of the appeal for consideration. That will, in turn, lead to further due action in Title Suit No. 180 of 2008, depending upon the nature of the order that the appellate Court may pass a Title Appeal No. 57 of 2010.

In the result, this application and order recording the request of the appellant for an expeditious disposal of Title Appeal No. 57 of 2010 after due service of memorandum of the appeal on the applicant herein. On production of a copy of this judgement order, the learned Civil Judge, Sr. Division 1st Court at Howrah where Title Appeal No. 57 of 2010 is pending will take requisite steps to ensure that orders, particularly order dated 12.06.2019, in Title Appeal No. 57 of 2010 are complied with and given effect to at the earliest. The request of the petitioner for further expeditious disposal of the matter

pending before the Trial Court will also be looked appropriately at that end.

The C.O. 1328 of 2020 is so ordered and accordingly disposed of.

(Thottathil B. Radhakrishnan, CJ.)