

S/L 4
18.12.2020
Court. No. 19
GB

C.O. 1353 of 2020

Nirmal Kumar Khemka & Anr.
Vs.
M/s. J.J. Grihanirman Private Limited
(Through Video Conference)

Mr. Rajarshi Dutta,
Mr. V.V.V. Sastry,
Mr. Tridib Bose.

...for the Petitioner.

Mr. Abhishek Halder,
Mr. Saparshi Bhattacharjee.

...for the Opposite Parties.

The petitioners are the award holders in Arbitration Execution Case No. 598 of 2018 pending before the learned Additional District, 8th Court at Alipore, District 24 Parganas (South). The petitioners have challenged the orders dated January 20, 2020, February 1, 2020 and February 3, 2020, on the ground that the learned court below has not proceeded with the execution case. It is alleged that by an order dated January 16, 2020 the learned court below allowed the prayer of the petitioners for appointment of a receiver in terms of the arbitral award dated April 13, 2018.

Records reveal that the award has attained its finality. The contention of the petitioners is that the petitioners have filed an application for appointment of one Mr. Amalesh Kanti Ghoshal, learned advocate as the receiver who was required to preserve and protect the petitioners' interest in

the property. According to the petitioners the learned court below allowed the application for appointment of a receiver, but did not name any receiver and as such, no receiver could be appointed for preservation of the property in question.

Mr. Abhishek Halder, learned advocate appearing on behalf of the opposite party submits that a civil suit had been filed by the opposite parties on several grounds and the said suit was disposed of in terms of Section 8 of the Arbitration and Conciliation Act, 1996. Challenging the same, the opposite parties preferred a civil revisional application, which was in the midst of being heard, but the hearing could not be concluded as the pandemic situation did not allow the court to take up the matter. He submits that the said application should be heard out expeditiously before this court, as the reliefs claimed in the suit will have a bearing on the execution proceeding.

Having considered the rival contentions, in my opinion, justice would be sub-served if the learned court below is directed to hear out the application filed by the petitioners for naming Mr. Amalesh Kanti Ghoshal as the receiver within January 15, 2021. It is made clear that as the opposite party is pressing hard before this Court for hearing of their application, similarly it should also render all cooperation to the learned court below so that the said application can be heard by the learned court below. The opposite party will not take any unnecessary adjournments by taking recourse of any frivolous reasons for seeking

adjournments. The opposite parties shall be at liberty to take steps for early listing of C.O. 4546 of 2016 after the Christmas vacation.

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.)