

ORDER SHEET

ALP/1/2020

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

ALAMBEE CO-OPERATIVE HOUSING SOCIETY LIMITED
Versus
RAJIV GARG AND ORS

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK

Date : 16th December, 2020.

(Via Video Conference)

Appearance:

Mr. Jayjit Ganguly, Adv.

Mr. Biswaroop Bhattacharya, Adv.

Mr. Pratik Majumdar, Adv.

The Court: The application under Clause 13 of the Letters Patent, 1865 is taken up for final consideration.

Learned Advocate appearing for the petitioner submits that, despite three orders passed by the High Court directing expeditious disposal of the ejectment suit, it is yet to be finally decided by the learned Court in seisin of the matter. He draws the attention of the Court to the fact that the ejectment suit was filed in 2010. The defendants in the suit for ejectment are making one application after the other, thereby preventing the final disposal of the suit.

Learned Advocate appearing for the contesting respondents submits, on instructions that, the suit is ready for hearing. The suit is fixed for hearing of argument. Evidence in the suit was completed. There is an application pending for recalling an endorsement in the application under Order XXXIX Rule 7 of the

Code of Civil Procedure, 1908, to the extent that the defendants not pressed such application. However, on instructions, he submits that, his clients are not pressing the application for recalling as also the application under Order XXXIX Rule 7 of the Code of Civil Procedure, 1908. He submits that, therefore, there is no impediment in the Court finally deciding the suit. Since there is no impediment in the Court in finally deciding the suit, this Hon'ble Court need not exercise its jurisdiction under Clause 13 of the Letters Patent, 1865. It is also submitted on behalf of the contesting respondents that, they will not seek any adjournment of the hearing before the Court in seisin of the ejectment suit.

It appears from the records that, in a suit for ejectment, an order dated July 16, 2015 was passed by the revisional Court requiring the Court in seisin of the ejectment suit to make effort to dispose of the suit as expeditiously as possible without granting unnecessary adjournments to either of the parties and preferably within four months from the date of communication of such order. Despite such order being communicated, the suit is yet to be decided finally. There is a second order dated June 20, 2016 passed by the revisional Court directing the Court in seisin of the ejectment suit to make an endeavour to dispose of the same as expeditiously as possible and preferably within one year from the adjourned date. Such order is yet to be complied with.

Since the contesting respondents not pressed all pending applications as noted above, and since the suit is at the stage of argument, and since the contesting respondents submitted that they will not seek any adjournment from the Court in seisin of the ejectment suit, powers under Clause 13 of the Letters Patent, 1865 are not exercised at present. Liberty is granted to the parties to approach this Hon'ble Court again in the event the suit is not disposed of

expeditiously, and within four months from date. The learned Judge in seisin of the ejectment suit will allot dates of hearing in such frequency so that he is in a position to dispose of the suit finally within four months from date.

ALP 1 of 2020 is disposed of accordingly.

(DEBANGSU BASAK, J.)

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