

02.08.2021
(S/L-16)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 37 of 2020

Mrs. Sharmila Basu Roy
-Vs-
Tapan Kumar Mitra

Mr. Tapan Kumar Majumdar,
..... For the Petitioner.

Mr. Rabindra Nath Datta,
.... For the Opposite party.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for eviction being Title Suit No. 1427 of 2018 pending before the learned Civil Judge (Junior Division) 3rd Additional Court at Alipore, District 24-Parganas (South) and is directed against the order dated August 14, 2019 passed in the said suit.

A Second Appeal being SA 98 of 2016 (SAT 509 of 2014) is pending disposal before the High Court which is directed against the appellate decree affirming the decree dismissing the suit filed by the opposite party for a decree of declaration of his title over the suit property wherefrom the petitioner is seeking eviction of the opposite party by the aforementioned Title Suit No. 1427 of 2018.

The learned Trial Judge by the order impugned has allowed an application filed by the opposite party under Section 10 of the Code of Civil Procedure,

thereby stayed the further proceedings of the said suit till the disposal of the said Second Appeal.

No doubt the outcome of the said Second Appeal has bearing on the ultimate result of the said suit for eviction nonetheless, complete arrest of all further proceedings of the said eviction suit till the disposal of the said Second Appeal would cause hardship to the petitioner which can be minimized by allowing the said suit to proceed but subject to the condition that the same shall not be disposed of until and unless the said Second Appeal is disposed of.

The learned Trial Judge, therefore, is directed to proceed with the Title Suit No. 1427 of 2018 but shall not dispose it of till the disposal of the pending Second Appeal before this Court.

The order impugned is modified to the extent indicated above.

C.O 37 of 2020 is disposed of with the above observations without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)