

09.03.2021
Sl. No. 4
srm

C.O. No. 358 of 2021
M/s. S. Jay Kishan (I) Limited
Vs.
Sri Satyanarayan Ray

Mr. Pranit Bag,
Ms. Farnaz Nasim

...for the Petitioner.

Mr. Raghunath Chakraborty,
Mr. Debabrata Chandra

...for the Opposite Party.

Affidavit of service is taken on record.

This revisional application has been filed with a prayer for a direction upon the learned District Judge, Barasat to dispose of an application under Order 39 Rule 2A of the Code of Civil Procedure filed in connection with Miscellaneous Case No.114 of 2013.

It is the contention of the petitioner that the said application has been filed alleging certain violation of an interim order passed by this Court in an appeal from the original proceedings, which is a proceeding under Section 9 of the Arbitration and Conciliation Act, 1996. It is submitted that the next date fixed in the matter is on June 11, 2021 and the delay might cause irreparable loss and injury to the petitioner.

Mr. Chakraborty, learned Advocate appearing for the opposite party, submits that the opposite party has also filed an application before the learned Court below for dismissal of the Section 9 application for the reasons mentioned therein. It is further submitted that the said application has been heard at length on contest. It is also submitted that the order has been reserved on February 4, 2021 but such order has not yet been passed. Thus, according to Mr. Chakraborty, unless the application filed by the opposite party is disposed of, no further direction should be passed asking the learned Court below to hear out the application filed on behalf of the petitioner.

I have heard the rival contentions of the respective parties. This Court is not required to answer the comparative merits of the applications filed by the parties and it is for the adjudication of the learned District Judge. However, I do not find any impediment in allowing the prayer of the petitioner for pre-ponement of the date for disposal of the application under Order 39 Rule 2A of the Code of Civil Procedure. Yet the records reveal that the application filed by the opposite party has already been heard out and reserved for orders. Thus, for ends of justice, in all fairness, the said application should be disposed of within two weeks from the date of

communication of this order and thereafter the learned Court below on the outcome of the application filed by the opposite party shall hear out the application filed by the petitioner and dispose of the same within a month therefrom.

It is made clear that this Court has not gone into the merits of the rival claims.

This order shall not be construed as a direction upon the learned Court below to decide either of the applications in a particular way. Both the applications shall be decided on their own merits, on the records and the documents before the learned Court below.

The parties are at liberty to apply before the learned Court below for pre-poning the dates so that the order in this revisional application shall be complied with by the learned Court below. Keeping in view the age of the opposite party, the learned Court below is directed to follow the period fixed hearing mandatorily.

With the aforementioned observations, this 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.)