

09.
15.11.2021
S.D.

C.O. 811 of 2019

Sri Subrata Chowdhuri
Vs.
Smt. Gouri Chowhan

Mr. Kushal Chatterjee
Mr. Debrup Chowdhury

...For the Petitioner.

Affidavit of service filed in Court be kept on record.

This application under the Scheme of Article 227 of the Constitution of India has been taken out for an appropriate order to expedite the hearing of Misc. Appeal No. 19 of 2017 pending in the Court of 2nd Additional District Judge at Barrackpore arising out of Misc. Case No. 24 of 2012 which has been filed on behalf of the petitioner for setting aside the *ex parte* decree passed in Title Suit No. 248 of 2009.

It is submitted by learned Advocate for the petitioner that the Misc. Case was filed to set aside the *ex parte* decree as proper summon of the suit was not served on the defendant/petitioner. So an application under Order 39, Rule 1 and 2 read with Section 151 of the Code of Civil Procedure was taken up for consideration on

behalf of the petitioner and the learned Trial Court directed the opposite party by an order of temporary injunction not to transfer or hand over the vacant possession of the suit flat to any third party till the disposal of the Misc. Case by order dated 7.3.2017. The said order was appealed against by the opposite party and is now pending. It is submitted that the said appeal is required to be expedited as it is pending since long.

There cannot be blame against the Appeal Court for not having expedited the appeal because of the COVID situation, which prevailed during the year 2020 and is still prevailing because of second and third wave.

However, the revisional application is decided with the direction upon the learned Appeal Court to expedite and dispose of the appeal on merit on the date fixed or preferably within one month from the date of communication of the order.

All parties are to act on server copy downloaded from the official website of the Court.

(Shivakant Prasad, J.)