

16.06.2021
Court No. 19
Item no.03
CP

C.O. 1056 of 2020

Jagadish Halder
vs.
Jamuna Halder & ors.
(via video conference)

Mr. Saikat Sen

.....for the petitioner.

This revisional application arises out of an order dated February 26, 2020 passed by the learned Civil Judge (Senior Division), 1st Court at Baruipur in Title Suit No. 37 of 2017.

By the order impugned, the learned court below allowed the application of the defendant no. 6 in the said suit to make construction of a new room under the Pradhan Mantri Abas Joyona Scheme. The petitioner, who is the plaintiff in the suit, has challenged the order on the ground that the petitioner was not granted appropriate opportunity to file an objection and contest the said application of the defendant no. 6.

From the order impugned it appears that the petitioner was given ample opportunity to file written objection to the application of the defendant no. 6 but he failed to do so. Such is the recording of the learned court below that does not appear to be incorrect from the records produced before this court. Moreover, the new room is sought to be

constructed on the funds received from the Government Scheme. The room has to be completed in a time bound method or else the money would have to be refunded to the Government. The fund transactions have been produced before the learned court below from which it would appear that the money was received by the defendant no. 6. Thus, in the partition suit the learned Trial Judge did not find any reason not to allow the defendant no. 6 the benefit of this scheme with a condition that the defendant no. 6 will not claim any equity with regard to the said construction to be made. Admittedly, in a partition suit where all the parties are co-sharers no title or right vests in the defendant no. 6 if he is allowed to make that construction subject to the result of the partition suit.

Under such circumstances, I do not find any reason to interfere with the order impugned.

It has been made clear by the learned court below that once the suit is disposed of, the defendant no. 6 will not be given any equity or benefit of the construction already made. As such, I do not find any reason why the plaintiff should be aggrieved at this stage when the plaintiffs right is protected.

The learned advocate for the petitioner/plaintiff prays that the learned court below may be directed to dispose of the suit expeditiously.

Under such circumstances, considering the nature of the suit and the long pendency thereof, the learned court below is requested to dispose of the pending applications expeditiously, preferably within a period of three months from date of communication of the order and make sincere endeavour to dispose of the partition suit expeditiously.

This court has not gone into the merits of the case and the learned court below will proceed independently and in accordance with law upon granting opportunity to all the parties to contest the same.

With the above observations, the revisional application is disposed of. There shall be no order as to costs.

All parties are to act on the server copy of this order.

(Shampa Sarkar, J.)