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29-11-2021

Ct. 8

FMAT 331 of 2017
With
CAN 1 of 2017 (old CAN 6677 of 2017)
With
CAN 2 of 2017 (old CAN 6678 of 2017)

Anil Ghosrai
Versus
Dilip Kumar Bera & Ors.

(Through Video Conference)

None appears on behalf of the appellant nor any prayer for adjournment is made on behalf of the appellant even on the second call. Even in the earlier occasion the appellant was not represented.

The appeal has been preferred against an order of refusal to pass an order of status quo dated 14th September, 2016 passed by the learned Civil Judge (Senior Division), 1st Court, Midnapore. There is delay of 72 days in preferring the appeal. An application for condonation of delay has been filed.

We have called for a status report wherefrom it appears that service of summons upon some of the defendants is pending since 7th January, 2019. Some of the defendants appear to have filed their written statement.

However, in our earlier order dated 10th March, 2021, it is wrongly recorded that the appeal arose out of an order of status quo. The said order needs to be corrected to the aforesaid extent.

Having regard to the nature of the suit and the evidence available with the court below showing the suit property is in the exclusive possession of the defendants, the learned trial court

declined to pass an order of injunction on 20th December, 2016. We could have dismissed the appeal and the application for default but in the interest of justice, we direct the learned trial court to expedite the hearing of the suit and if any application is pending to dispose of the same within a reasonable time.

Accordingly, we request the learned Civil Judge (Senior Division), Midnapore to dispose of the suit preferably within a period of one year from the date of communication of this order without granting any adjournment to either of the parties unless it is unavoidable.

The learned Registrar (L&OM) is directed to immediately commute this order to the learned Civil Judge (Senior Division), Midnapore.

With the above directions, the appeal and the connected applications are, accordingly, disposed of.

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)