

27.09.2021
(S/L-06)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 985 of 2020

Nur Islam, @ Md Nurul Islam
-Vs-
Alekh Seikh @ Khaliqqe Seikh & Ors.

Mr. Partha Pratim Roy,
.... For the Petitioner.

The order proposed to be passed in the present revisional application under Article 227 of the Constitution of India would not cause any prejudice to the opposite parties, as such, service of notice of the present revisional application upon the said opposite parties is dispensed with.

The defendant No. 6 in a suit for partition being Partition Suit No. 128 of 1998 is the petitioner of the present application under Article 227 of the Constitution of India.

The petitioner along with the deceased defendant no. 5 put the final decree of partition passed in the said suit into execution giving rise to Execution Case no. 1 of 2014 before the learned Civil Judge (Senior Division) at Lalbagh, District-Murshidabad.

The plaintiffs/decreed-holders appeared in the said execution case and questioned the maintainability of the said case on the ground that no share of the said defendants since have been declared in the preliminary decree, the execution case levied by them is not maintainable.

The learned Trial Judge proposed to hear the issue of maintainability of the said execution case before proceeding further with the said execution case.

Mr. Partha Pratim Roy, learned advocate appearing on behalf of the petitioner submits that the said issue fell for consideration of the Executing Court on September 18, 2019 but it has not yet been answered.

He prays a direction upon the Executing Court for immediate decision on the said issue.

The pendency of an issue of maintainability for such long period is not appreciated.

The executing Court, therefore, is requested to decide the said issue as expeditiously as possible, preferably within a period of one effecting working month from the date of communication of this order without granting any unnecessary adjournment to either of the parties.

The petitioner is required to serve a copy of this order upon the learned Advocate for the contesting parties in the connected execution case.

C.O. 985 of 2021 is disposed of 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.)