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C.O. 1504 of 2021

Shree Shree Shyam Sundar Lakhi Janardhan Jew
Thakur & Ors.
Versus
Sudipto Maity & Ors.

(Via Video conference)

Mr. Jiban Ratan Chatterjee,
Mr. Munshi Ashiq Elahi.
... For the Petitioner Nos.1 & 3.
Mr. Debabrata Mondal,
.. For Petitioner No.2.
Mr. Sundar Gopal Bhattacharya,
...for O.P.No.5.

Supplementary affidavit filed today on behalf
of the petitioner No.2 is kept with the record.

The Court is approached under Article 227 of
the Constitution of India, soliciting a direction to
ensure expeditious disposal of an application under
Order 40 Rule 1 CPC, praying for appointment of
receiver.

Mr. Jiban Ratan Chatterjee, learned Advocate
representing petitioner Nos.1 & 3 submits that the
main issue relating to the contesting claim of
shebaitis over a Debuttar property has already been
addressed by the learned Court below, and the suit
has been ended in decree, thereby framing a
scheme for the maintenance of deities as well as for
due performance of the shebaitis involve in the suit.

Mr. Chatterjee further submits that since
subsequently there appeared some disparity with
regard to the scheme being formulated by the

learned Court below, an execution application has been preferred before the learned Court below. In connection with such execution application, an application for appointment of receiver under Order 40 Rule 1 CPC has been filed. The said application, according to Mr. Chatterjee, for appointment of receiver has not yet been disposed of, resulting in serious prejudice to the valuable rights of the decree holders/shebait.

Learned Advocate representing petitioner no.2 submits that the execution application together with the interlocutory application pending therein, should be addressed by the learned Court below expeditiously, so that rights of the shebait decided by the Court below should be duly respected to in the manner, as already held by the learned Court below.

Learned Advocate Mr. Sundar Gopal Bhattacharya, representing the opposite party No.5 submits that the application for receiver under Order 40 Rule 1 CPC necessarily has to be heard out upon serving notice to the judgment debtors, shown in the decree already drawn up by the learned Court below.

Incidentally, the learned Advocate for the opposite parties has drawn attention of the Court to the order dated 11th August, 2021, wherefrom it appears that the learned Court below is quite alive of the fact as regards the service of notice upon the judgment debtors with respect to application under Order 40 Rule 1 CPC, and in such context the learned Court below has already fixed the matter on 5th October, 2021.

In the month of October, 2021, there will be long vacation of Court below.

Having considered the submissions of both sides, the point to be addressed is very short and it requires no extensive hearing, and the instant revisional application may be disposed of giving a direction to ensure expeditious disposal of pending application for appointment of receiver under Order 40 Rule 1 CPC.

Learned Civil Judge (Senior Division) at Alipore in connection with Title Execution Case No.4 of 2020 is directed to dispose of the pending application under Order 40 Rule 1 CPC, praying for appointment of receiver latest by 30th September, 2021, upon serving due notice upon the judgment debtors involved in this case.

Learned Advocate for the petitioner is directed to make an application before the learned Court below praying for preponing the date in the interest causing expeditious disposal of pending application for receiver, and if any application is filed to that effect by the learned Advocate for the petitioner, the same shall be duly addressed to, so that the matter may be peremptorily disposed of within 30th September, 2021.

In doing such exercise, learned Court below is directed to prepone the date upon due notice to all the judgment debtors.

Service upon the judgment debtors may be effected through E-mode, also in the interest of ensuring expeditious disposal of the pending application for appointment of receiver.

Learned Advocate for the petitioner is further directed to make communication of this order to the learned Court below.

This application is disposed of without going into the merits of the case and also without prejudice to the rights and contentions of the parties involved in this case.

With these observations and directions, the revisional application stands disposed of.

(Subhasis Dasgupta, J)