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C.O. 1792 of 2021

Cygnus Equipments and Rentals Private Limited
Versus
Takhellambam Swami Singh & Anr
(Via Video conference)

Mr. Dwaipayan Basu Mallick,
Ms. Shreya Chowdhury,
... For the Petitioner.

The Court is approached under Article 227 of the Constitution of India soliciting a direction to ensure expeditious disposal of a Misc Case No. 126 of 2016 arising out of Title Suit No. 1121 of 2011 now pending before learned Civil Judge (Senior Division), 4th Court, Alipore.

Mr. Dwaipayan Basu Mallick, learned advocate representing the petitioner candidly submits that though the suit was originally instituted in the year 2011 but the same was dismissed for default in the year 2015 and thereafter an application under Order 9 Rule 9 of the Code of Civil Procedure was filed seeking restoration of the original suit.

Adverting to copy of order dated 8th February, 2019, passed in C.O. 526 of 2019, by a Co-ordinate Bench of this Court, learned advocate for the petitioner submits that inspite of the direction passed by this Court, the pending Misc case has yet not been concluded causing the petitioner to suffer extreme hardship.

In context with the above, the petitioner has further submitted that the delay has been condoned, and the evidence adduced by the

petitioner has already been over, and only the argument is required to be heard out in connection with pending Misc case under Order 9 Rule 9 of the Code of Civil Procedure.

In view of the nature of the order proposed to be obtained, and the issue sought to be addressed by this Court, the Court is of the view that this may be decided right now, even without securing presence of the opposite parties, giving a suitable direction for the purpose.

Upon perusal of the impugned order, it appears that resolution of the concerned Bar taken on 14th July, 2021, put the Court below to face inconvenience to proceed with the pending Misc case No. 126 of 2016 arising out of Title Suit No. 1121 of 2011.

However, the instant revisional application be disposed of with a direction upon the learned Civil Judge (Senior Division), 4th Court, Alipore to dispose of the pending Misc Case No. 126 of 2016 arising out of Title Suit No. 1121 of 2011 after hearing out the argument, to be advanced by either of the parties to the case, so that logical conclusion of the Misc case may be reached within three months from the date of communication of this order.

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

The petitioner shall communicate this order to the learned court below, as well as to the opposite party and his learned advocate for the opposite party appearing in the court below at the earliest for the purpose.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, given to the learned advocates for the parties on the usual undertaking.

(Subhasis Dasgupta, J)