

26.03.2021
(S/L-61)
Ct.-18
(Susanta)

(Via Video Conference)

CO 2913 of 2019

Sri Avijit Dey & Anr.
-Vs-
Ranjit Kumar Mistry

Mr. Arif Ali,
Md. Sayeed Khan,
..... For the Petitioners.

Mr. Pritam Choudhury,
Mr. Anindya Roychowdhury,
..... For the Opposite Party.

The defendant in a suit for declaration of title and recovery of possession are the petitioners of the present application under Article 227 of the Constitution of India.

The petitioners aggrieved by the decree passed in said suit have preferred the connected Title Appeal No. 246 of 2011 which is pending before the 10th Court of learned Additional District Judge at Alipore, District 24-Parganas (South).

The Appeal Court below by the order impugned being order no. 46 dated July 16, 2019 has dismissed an application filed by the petitioners praying stay of the Execution Case levied to execute the decree under appeal. The order impugned is bereft of any reason and is set aside on the said ground alone.

C.O 2913 of 2019 is disposed of with a direction upon the Appeal Court below to decide the application for stay afresh in accordance with law.

It is made clear that this Court has not gone into the merit of the claim and the counter-claim of the parties.

The Appeal Court below is requested to dispose of the said application for stay and the appeal expeditiously without granting any unnecessary adjournment to either of the parties.

There shall be no 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.)