

05.02.2021
(S/L-09)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 1286 of 2020

Md. Idris
-Vs-
Pritepal Singh & Ors.

Mr. Manas Kumr Barman,
..... For the Petitioner.

Mr. Souradipta Banerjee,
Mr. Arnab Roy,

..... For the O.P. Nos. 1 & 2.

Affidavit-of-service filed in Court today be
kept with the record.

The revisional application under Article 227
of the Constitution of India is directed against
order No. 19 dated September 26, 2019 passed
by the learned Chief Judge, Presidency Small
Causes Court, at Calcutta in Ejectment Suit no.
145 of 2018.

The learned Trial Judge by the order
impugned has dismissed an application filed by
the petitioner for being added as a defendant in
the said Ejectment Suit.

The suit property is under the custody of the
receiver appointed in suit No. 163 of 1977 vide
order dated January 16, 1978.

The petitioner is claiming that he has been
inducted as a tenant in respect of the suit

property by the said receiver as such he is a necessary party to the connected suit for ejectment.

The learned Trial Judge has negated the said claim of the petitioner holding that the receiver in his order of appointment has not been authorized to induct new tenant in the suit property.

Mr. Barman, learned advocate appearing on behalf of the petitioner, submits that the receiver being appointed to protect the suit property, his appointment automatically authorizes him to induct new tenants to fetch some income for the trust, the owner of the suit property.

He places reliance on the decision of the Hon'ble Supreme Court in the case of ***Shree Ram Urban Infrastructure Ltd. vs. Court Receiver, High Court of Bombay*** reported in **(2015) 5 Supreme Court Cases 539** to contend that the terms of appointment specifying powers of receiver should not be narrowly construed.

On the other hand, Mr. Banerjee, learned advocate appearing on behalf of the opposite party Nos. 1 & 2 contends that the order of appointment of receiver is specific and he has been appointed only for the purpose of collecting rent from the existing tenants and to perform acts ancillary thereto. The order of appointment does not authorize him to induct new tenant into

the properties under his custody. Therefore, according to him, the learned Trial Judge is absolutely justified in refusing the prayer of the petitioner.

Heard learned Counsel for the parties.

On perusal of the order of appointment of the receiver a copy whereof has been supplied by Mr. Banerjee it appears that the appointment is for a very specific purpose i.e. for collection of the rent from the existing tenants and for other incidental purposes apart from preservation of the suit property.

The receiver in terms of the said order of appointment cannot grant lease in respect of the property under his custody beyond the period of three years without the leave of the appointing Court. It is not the case of the petitioner that he was inducted in the suit property as tenant after obtaining the said leave as such his said induction is de hors the said order of appointment.

The Hon'ble Supreme Court in the case reported in **(2015) 5 Supreme Court Cases 539 (supra)** cited by Mr. Barman although has held that the terms of appointment specifying the powers of receiver should not be narrowly construed but in view of the specific restriction, the order of appointment cannot be construed so

widely to vest power upon the receiver to induct the new tenants in the suit property without the leave of the appointing Court.

This Court, therefore, is of the considered opinion that the learned Trial Judge has not committed any error in refusing the prayer of the petitioner.

The revisional application for the aforesaid reason fails. C.O.1286 of 2020 is accordingly dismissed.

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.)