

ORDER SHEET
WPO NO.451 OF 2020
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

S SRIDHAR
Versus
HON'BLE DISTRICT JUDGE, PROBATE JURISDICTION, KOLKATA & ORS.

BEFORE:
The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA
Date : 7th January, 2021

Appearance :
Mr. S. Sridhar appears in person.

The Court : Affidavit of service and subsequent extracts from the postal website filed today in Court be kept on record.

The petitioner is granted leave to appear in person.

The grievance of the petitioner is that the Title Suit No.1394 of 2013, pending before the Eleventh Bench of the City Civil Court, is dragging on for an inordinately long period and several procedural irregularities are occurring in connection with the suit. Despite a previous direction of this Court to decide the suit expeditiously, the matter is still pending. In such circumstances, the petitioner prays for the records of the suit to be called for by this Court and for this Court to decide the matter.

However, although the petitioner has a fundamental right to get justice, which is an integral part of the right to live, such right is not unfettered but is circumscribed by procedural and substantive law enacted under the constitution itself. Since the suit is pending before a particular civil court, where the petitioner is a defendant, it would be beyond the authority of this court to unnecessarily call for the records and usurp the powers of the civil court, in the process depriving the parties of a forum of appeal as well.

Moreover, the writ court cannot appreciate details on facts and law upon taking evidence, which squarely falls within the domain of the civil court.

Accordingly, WPO No.451 of 2020 is disposed of by requesting the Judge, Eleventh Bench, City Civil Court at Kolkata to dispose of the Title Suit No.1394 of 2013 pending before such Court within nine months from the date of communication of this order. It is made clear that the merits of the contentions of the parties to the suit have not been gone into by this court and will be open for the trial court to adjudicate thereon.

The petitioner shall communicate this order to the court below as well as the respondents at the earliest to ensure due compliance of the same.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance of all requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)