

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/156/2021
WITH
EC/22/2021
IA NO: GA/1/2021, GA/2/2021
SMT. SARMILEE DUTTA
VS.
SMT. BARNALI DUTTA AND ORS.

BEFORE :
THE HON'BLE JUSTICE I.P. MUKERJI
A N D
THE HON'BLE JUSTICE ANIRUDDHA ROY
DATED : OCTOBER 7, 2021.

Appearance :
Mr. Swatarup Banerjee, Advocate
Ms. Saheli Sen, Advocate
Mr. Rakesh Sarkar, Advocate
...for appellant
Mr. A.C. Kar, Sr. Advocate
...for decree holder

The Court :- We admit the appeal.

As the point involved is very short, we propose to dispose of it dispensing with all formalities.

This appeal is from a judgement and order dated 23rd September, 2021 in an execution proceeding. The decree sought to be enforced directs the Appellant judgement debtor to vacate the subject premises.

Mr. Kar, learned Senior Advocate for the decree holder submits that this decree has been affirmed by the Appellate Court. Mr. Swatarup Banerjee, for the appellant submits that his client's appeal from an order refusing modification of the decree is pending consideration before the Appellate Court.

The impugned order is in terms of prayer (c) of the Tabular Statement asking for delivery of vacant possession of the subject property by the appellant judgement debtor.

We notice that the execution application is scheduled to appear before the executing Court in November 2021.

The said appeal, cited by Mr. Banerjee is also pending.

Let the execution application appear before the executing Court as directed by the said order.

In the meantime, the order dated 23rd September, 2021 will operate as modified by us to the effect that the Receiver will be entitled to take physical possession of the subject premises, notionally, that is to say without disturbing the possession of the appellant till 30th November, 2021 or until further order of the Executing Court or the Appellate Court.

The judgement debtors will be deemed to be licencees in possession under the Receiver. They will assist the Joint Receivers to implement the order appealed against.

The Appeal and the stay application are disposed of.

(I.P. MUKERJI, J.)

(ANIRUDDHA ROY, J.)