

Item-2. 21-12-2022

FA 150 of 2010
CAN 7 of 2022

sg Ct. 8

Smt. Amala Dutta, since deceased,
Represented by Smt. Sipra Halder & Ors.
Versus
Smt. Kabyashree Mukherjee

Mr. Dhrubojyoti Ghosh, Adv.
Mr. Somnath Maiti, Adv.
Mr. Anubrata Santra, Adv.

...for the appellants

Mr. Probal Kr. Mukherjee, Sr. Adv.
Mr. Sukanta Chakraborty, Adv.
Mr. Anindya Halder, Adv.

...for the respondent

The petitioner is the decree holder. The petitioner has filed an application for extension of time to deposit the balance consideration amount, which was originally agreed to Rs.4,15,000/- since enhanced to Rs.40,00,000/-. The plaintiff paid a sum of Rs.15,000/- towards earnest money out of total consideration of Rs.4,15,000/- as stipulated by the respondent. To execute a deed of conveyance, the suit for specific performance was filed with a promise to pay balance consideration amount.

However, for the reason recorded in the judgment, we enhanced the consideration to Rs.40,00,000/-. This judgment has not been challenged by either of the parties till date. The decree-holder filed the instant application on 25th November, 2022 before the expiry of two months period stipulated in the decree for extension of time by another two months on the ground that the husband of the applicant had suffered cardiac problems for which he was taken to Bangalore for treatment and there could be a possibility of further requirement of fund in the event the husband

of the decree-holder has not recovered in the meantime.

On the earlier occasion, we directed the applicant to file an affidavit disclosing its capability and capacity to pay the amount had the said decree being implemented within the period when it was supposed to be acted upon and payments were to be made in accordance with the decree.

The supplementary affidavit filed by the applicant disclosed that she had sufficient fund at the relevant time and even on that date to pay the balance consideration amount.

We accept the explanation offered by the applicant for extension of time to deposit the balance consideration amount within two months from the date of filing of the application.

The time to pay balance consideration amount is peremptorily extended till 25th January, 2023, in default, the suit shall stand dismissed by reason of such extension.

In view of the aforesaid modification, there would be automatic extension of the periods mentioned in the decree for such months/periods with regard to the extension and registration of the deed of sale and delivery of possession by the appellants to the decree-holder.

The application accordingly, stands disposed of. However, there shall be no order as to costs.

The decree stands modified to the aforesaid extent.

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)