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Ct. 18
11.05.2022

C.O. No. 95 of 2018

Kalpana Saha & Ors.
Vs.
Kalyan Kumar Saha & Ors.

Mr. Saunak Bhattacharyya,
Mr. Saunak Mondal ... For the petitioners.

Mr. Saunak Bhattacharyya, learned advocate appears on behalf of the petitioners and files affidavit-of-service, which is taken on record.

In spite of service none appears on behalf of the opposite parties.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiffs in a suit for partition and is directed against the Order No. 43 dated July 06, 2017 passed by the learned Civil Judge (Senior Division) at Kalna, District – Purba Burdwan in the said suit being Title Suit No. 69 of 2014.

The petitioners in the said suit filed three applications, first one under Order I Rule 10 (2) of the Code of Civil Procedure, the second under Order VI Rule 17 of the Code and the third under Section 94 of the Code.

The learned Trial Judge by the order impugned has kept those applications pending since an order staying further proceedings of the suit has been passed in C.O. 897 of 2016.

A second appeal is pending between the parties before this Court and in view of the pendency of the said appeal the opposite parties applied before the learned Trial Judge

for stay of all further proceedings of the present suit under Section 10 of the Code.

The said application was rejected by the learned Trial Judge, feeling aggrieved, the opposite parties had preferred the said revisional application. The said revisional application has been disposed of by the judgment and order dated May 03, 2016 thereby staying all further proceedings of the present suit till the disposal of the said second appeal.

An order of stay of further proceedings of the suit under the said provision of the Code arrests the trial of the suit without affecting the power of the Court to entertain the interlocutory applications filed in the suit.

C.O. 95 of 2018 is disposed of with a request to the learned Trial Judge to dispose of the said applications in accordance with law.

The petitioners are required to communicate this order to the opposite parties as well as to the learned advocate representing them in the Court below within a week from date.

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.)