

15.03.2022
Item No.07
Court No.18
AJ.

C.O. 449 of 2022

Iasin Rahaman Mullick & Anr.

-Vs-

Safiqe Ali @ Mir Safiqe & Ors.

Mr. Bhagabat Chowdhury,
Sk. Toslim Ali.
....for the petitioners.

Mr. Sounak Bhattacharya,
Mr. Sounak Mondal.
.....for the opposite partes.

The petitioners have suffered a decree of recovery of possession of the suit property in Title Suit No. 46 of 2014. The said decree when was put into execution gave rise to connected Title Execution Case No. 63 of 2020.

The Executing Court by the order impugned dated November 25, 2021 has allowed an application filed by the decree holders/opposite parties under Order XXI Rule 97 of the Code of Civil Procedure for police assistance to execute the said decree.

Irrespective of any defence being taken, before allowing an application under Order XXI Rule 97 of the Code for grant of Police Assistance to execute a decree of possession, duty is cast upon the Executing Court to investigate as to whether the said application was filed within the prescribed period of limitation or not.

The order impugned does not reflect that such an exercise was carried out by the Executing Court. In fact the order is not supported by any reason whatsoever.

For the aforesaid reasons the order impugned is set aside.

The executing Court is directed to decide the said application afresh in accordance with law.

In view of the nature of the decree, it is expected that the Executing Court shall make all endeavour to dispose of the said application as expeditiously as possible.

C.O. 449 of 2022 is disposed of with the above terms without any 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.)