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07.03.2022
(p.jana)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

CO No. 669 of 2019

**Balaram Haldar
-versus-
Sadhan Haldar**

Mr. Surya Prosad Chattopadhyay
Mr. Arjun Samanta,
Mr. Saptarshi Kumar Mal, ... for the petitioner.

Mr. Soumyadeep Biswas, ... for the opposite party.

The revisional application under Article 227 of the Constitution of India is directed against the order no. 08 dated June 20, 2017 passed by the 3rd Court of learned Civil Judge (Junior Division), Nadia at Krishnagar in Title Execution Case No. 7 of 2016 arising out of Title Suit No. 12 of 2013.

The suit filed by the petitioner being Title Suit No. 12 of 2013 in the 3rd Court of learned Civil Judge (Junior Division) at Krishnagar, Nadia was decreed on July 29, 2016 in the following manner:

“the suit be and the same is decreed on contest against the defendant. Plaintiff is hereby entitled to get the 16 annas title and possession over the suit property. It is further declared that B Schedule deed i.e Deed of Sale being no. 6114/12 is forged, collusive, inoperative and not binding upon the plaintiff.”

The said decree was put into execution given rise to the connected Title Execution Case.

The Executing Court by the order impugned has dismissed the said execution case on the ground that an earlier application of the decree-holder for police

assistance to execute the said decree was dismissed with the finding that the decree-holder is in possession of the suit property, dismissal of the entire execution case for a finding in an order dismissing an interlocutory application is not warranted.

The order impugned therefore is set aside and the Title Execution Case No. 7 of 2016 is restored to its original file and number but in view of the nature of decree the question of maintainability of the execution case is kept open.

Mr. Soumyadeep Biswas, learned counsel appearing for the judgment-debtor/opposite party submits that an appeal being Title Appeal No. 99 of 2016 against the decree under execution is pending before the 3rd Court of learned Additional District Judge, Nadia at Krishnagar.

C.O. 669 of 2019 is thus disposed of without any 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.

(Biswajit Basu, J.)