

(17)
16.03.2022
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO No. 586 of 2022

Bilwadas Mondal
-versus-
Bhusan Chandra Mondal & ors.

Mr. Vivekananda Bose,
Ms. Deblina Chattaraj, ... for the petitioner.

Mr. Jaharlal Roy, ... for the opposite parties.

The plaintiff in a suit for partition is the petitioner of the present application under Article 227 of the Constitution of India which is directed against the order dated February 28, 2022 passed by the 7th Court of learned Civil Judge (Senior Division), Alipore in Title Suit No. 765 of 2009.

The suit has already been decreed in preliminary form on admission.

The learned Trial Judge by the order dated September 28, 2018 refused to accept the report of the Partition Commissioner and directed fresh commission.

The petitioner on December 24, 2018 filed two applications; one for recalling of the said order dated September 28, 2018 and another application for stay of further proceedings of the suit till the disposal of the said recalling application.

The grievance of the petitioner is that the said recalling application was disposed of on a date fixed for hearing of the said application for stay.

Record reveals that February 28, 2022 was the date fixed for hearing of the said application for stay

but tenor of the order impugned suggests that the learned Trial Judge has also considered the said application for recalling but it is not clear as to whether the said application for recalling of the order dated September 28, 2018 was disposed of by the order impugned or not.

Since February 28, 2022 was a date fixed for hearing of the application for stay, it is clarified that by the order impugned the learned Trial Judge has rejected the application for stay.

CO 586 of 2022 is disposed of by requesting the learned Trial Judge to dispose of the application filed by the petitioner seeking recall of the order dated September 28, 2018 expeditiously, preferably on the next date fixed in the suit and in doing so shall not entertain the prayer of the parties for any unnecessary adjournment.

It is made clear that this Court has not gone into the merit of the said application for recall; it is for the learned Trial Judge to decide it in accordance with law on its own merit.

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 of all requisite formalities.

(Biswajit Basu, J.)