

12.04.2022
Item No.12
Ct. No.7
CHC
(disposed of)

**C.O.729 of 2022
(Physical Hearing)**

**Sri Gosai Das
Vs.
Swapan Kumar Das**

Mr. Supratick Syamal,
Mr. S. M. Ismail,
Mr. Anirban Tribedi
...for the petitioner

Mr. Tarak Nath Halder
...for the opposite party

Petitioner assails the order dated 3rd February, 2022, passed by learned Civil Judge (Junior Division), Additional Court, Sealdah, in Title Execution No.3 of 2020 rejecting the petition filed by the JDR/petitioner praying for adjournment.

Mr. Syamal, learned advocate appearing for the petitioner submits that by reason of the order passed in SAT 139 of 2020 with CAN 2 of 2021 the petitioner/JDR/defendant is supposed to occupy the suit property till June, 2022.

It is contended by the learned advocate for the petitioner that the decree has been executed making violation of the direction contained in the order passed in Second Appeal referred hereinabove, and also making infraction of the provisions of the law, as contained in the Code of Civil Procedure.

It is also submitted that petitioner/judgement-debtor has been forcefully evicted behind the back of the JDR/petitioner retaining the household articles of the petitioner/JDR.

Challenging such irregularities, the petitioner has come up before this Court impugning the order dated 3rd February, 2022, rejecting the prayer of adjournment.

Mr. Halder, learned advocate appearing for the opposite party/Caveator submits that decree has already been executed delivering possession to the decreeholder-Caveator/opposite party, on 30th November, 2021, at about 11:30 a.m.

Mr. Halder, further submits that the moment when the order dated 30th November, 2021 was passed in SAT 139 of 2020, the Court had no first hand knowledge, if the decree had already been executed putting the decreeholder into possession or not, and that is why the direction to occupy the suit property till 30th June, 2022 was passed, if the decree in the meantime had not been executed.

Since the decree has already been executed upon delivery of possession, there lies nothing to be interfered with. The impugned order thus does not call for any interference.

Mr. Halder in all his fairness assures this Court that the household articles of the petitioner/JDR,

revealed as in the Bailiff report, will be given back to the petitioner/JDR within 48 hours from date.

Learned advocate for the JDR/petitioner thus may approach the decreeholder, or this learned advocate to take back his household articles, as found in the report of Bailiff.

With this direction and observation, the revisional application stands disposed of.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)