

34. 03.02.2022
Ct. No.21
TGH

C.O. 726 of 2021

Md. Ibrahim Ansari
-Versus-
Sakeel Ahmed @ Shakil Ahemed
(Through Video Conference)

Mr. Sanjib Seth, Adv.

...for the petitioner.

Mr. Sanjib Seth, learned Advocate appears on behalf of the petitioner and files affidavit of service along with the postal receipt and track report showing due service on the opposite party/judgment-debtor.

The plaintiff/landlord/decreed-holder has filed the present revisional application challenging the order dated December 15, 2020 passed by the Civil Judge, Junior Division, 3rd Court, Howrah, in Misc. Case No. 222 of 2018 arising out of Title Suit No. 1499 of 2017 and whereby, the learned Court below refused to consider the prayer made by the present petitioner for disposal of the Misc. Case under Order IX, Rule 13 of the Code of Civil Procedure, 1908 filed by the defendant/opposite party and for extension order of stay order dated 22.01.2019 till next date.

Prima facie, this Court does not find any prejudice being caused to the petitioner by the impugned order as it has not decided any right and interest of the petitioner.

However, from the submission of the petitioner's Advocate it appears that the petitioner/plaintiff has filed Title Suit No.1499 of 2017 for eviction of the opposite party and obtained an *ex parte* decree on October 14, 2018. The defendant/opposite party filed the Misc. Case under Order IX, Rule 13, C.P.C. praying for setting aside the *ex parte* decree on December 24, 2018. In the meantime, the plaintiff/petitioner has put the decree into execution. Therefore, the defendant/judgment-debtor filed an application in the Misc. Case praying for stay of the execution of the *ex parte* decree and which appears to have been allowed by the learned Court below. Since the impugned order has not decided any rights of the petitioner, nor has caused any prejudice to the petitioner, therefore, I do not find any infirmities in the impugned order and I am not inclined to set aside the same.

However, the learned Court below is requested to dispose of the Misc. Case under Order IX, Rule 13, C.P.C. being registered as Misc. Case No. 222 of 2018 within two months from the date of communication of this order without granting any sort of adjournment to either of the parties.

Accordingly, the revisional application being C.O. 726 of 2021 is disposed of. Interim order, if any, stands discharged.

There will be no order as to costs.

Urgent Photostat certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Kesang Doma Bhutia, J.)