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**C.O. 1256 of 2022
With
CAN 1 of 2022**

**Badal Ghosh
Vs
Debapriya Dey**

Mr. Kaushik Dey, ... For the petitioner.

**Mr. Tarak Nath Halder,
... For the opposite party.**

The subject matter of challenge in this revisional application is against the rejection of a prayer for adjournment, made by the petitioner/defendant/judgment debtor in Misc. Case No. 15 of 2019 pending before learned Civil Judge (Junior Division), Bidhannagar relating to a prayer for police help, for execution of a decree.

Mr. Kaushik Dey, learned advocate appearing for the petitioner/judgment debtor submits that the Court below has not appropriately gone into the facts involved in this case, and mechanically rejected the prayer for adjournment in a Misc Case No. 15 of 2019 initiated at the instance of the opposite party/decreed holder under Order 21 Rule 97 of the CPC.

Mr. Dey further submits that the Court below has also closed the evidence of PW1, making denial of the right of the cross-examination of the petitioner/judgment debtor, which is absolutely illegal.

Incidentally, it is submitted by Mr. Dey that an appeal has already been placed before the first lower appellate body, and it is still pending.

Mr. Tarak Nath Halder, leaned advocate appearing for the opposite party/decreed holder submits that the prayer for executing the decree was made in the year 2019, with a further prayer for police assistance to execute the decree, and the execution process is getting halted due to the adjournment being sought for by the petitioner, and subsequently granted by the Court below.

It is thus contended by Mr. Halder that the endeavour put up by the petitioner is nothing but a dilatory one, simply to harass the decreed holder, causing delay to the pending execution.

Having considered the submission of both sides, it appears that for the conduct exposed by the petitioner/judgment debtor, the impugned order was passed closing the evidence of PW 1, and thereby making denial of right of cross-examination to petitioner. True it is that the conduct of the petitioner is not happy one, but still then if an opportunity is granted for the cross-examination of the PW1 in connection with the pending Misc case simply to put an end to litigation, that will not cause any prejudice to the decreed holder/opposite party.

The revisional application is thus disposed of

upon setting aside the order dated 7th May, 2022 passed in Misc Case No. 15 of 2019 pending in learned Civil Judge (Junior Division), Bidhannagar with a direction upon the Court below to permit the petitioner/judgment debtor to resume cross-examination of PW1 either on the scheduled date or, if for any reason whatsoever, the same could not be done, the date may be fixed peremptorily for the cross-examination of the PW 1 within the fortnight thereafter.

The application being CAN 1 of 2022 is accordingly disposed of.

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

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Subhasis Dasgupta, J)