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C.O. 1362 of 2022

**Jinna Mondal
Vs
Mst. Sakila Bibi**

Mr. Mukteswar Maity, ... For the petitioner.

Mr. Gautam Das,
Ms. Madhumita Patra. ... for the opposite party.

Mr. Mukteshwar Maity, learned advocate appearing for the petitioner/respondent/decreed-holder submits that pending Misc. Appeal No. 39 of 2008 of Learned Additional District Judge, 1st Court, Hooghly cannot move ahead for the technicalities being attracted over there.

It is contended by Mr. Maity that the technicalities are of such dimension that it will go to the root of the pending appeal, and there is no need for decision of this appeal by the First Lower Appellate Court.

Mr. Gautam Das, learned advocate appearing for the opposite party, upon receiving copy of this application today submits that learned court below has gone into points raised by the petitioner declined to consider such technicalities consciously, and rather posted the matter for hearing of appeal.

Since the appeal is pending since 2008, learned advocate appearing for the opposite party incidentally

submits that this Court should desist from entering into the merits of the technicalities, now raises by the Maity during the pendency of this Misc. Appeal before the First Lower Appellate Body.

Having considered the submission of both sides, in context with the impugned order, it appears that certain technicalities are alleged to have been violated, causing infraction of law, and as such it is contended by petitioner that the appeal should not be proceeded further.

Mr. Maity in reply proposes that if this revisional application is disposed of giving him liberty to raise such points, now raised in appeal, nobody can claim any prejudice on such issue. Such proposal of Mr. Maity as well as the submission of learned advocate appearing for the opposite party, for expeditious disposal of appeal needs to be duly regarded to.

In that view of the matter, the revisional application is thus disposed of directing the court below to ensure expeditious disposal of Misc. Appeal No. 39 of 2088, pending before the Learned Additional District Judge, 1st Court, Hooghly.

Liberty is given to petitioner/respondent/decree-holder to raise all such points, based on technicalities, now raises before the pending Misc. Appeal.

If any points are raised, based on technicalities, the same shall be resolved by the Court below at the time of final hearing of this appeal, providing an opportunity of hearing to opposite party/appellant, so that the points raised by the petitioner may be duly controverted to, while giving hearing for the purpose.

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

This order is passed without going into the merits of the case, and without prejudice to the rights and contentions of the parties.

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

(Subhasis Dasgupta, J)