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Ct. 18
08.07.2022

C.O. No. 1628 of 2022

**Smt. Mita Bhowmick
Vs.
Amitabh Banerjee & Ors.**

Mr. Debjit Mukherjee,
Mr. Kaustav Bhattacharya ... For the petitioner.

The order proposed to be passed in the present application under Article 227 of the Constitution of India would not cause any prejudice to the opposite parties, as such, service of notice of the present application upon the said opposite parties is dispensed with.

The petitioner is the decree-holder of a decree of recovery of possession. The said decree was put into execution giving rise to the connected Ejectment Execution Case No. 14 of 2015 before the 1st Court of learned Civil Judge (Junior Division) at Alipore, District – 24 Parganas (South).

The grievance of the petitioner is inordinate delay in disposal of the said execution case.

It is submitted that the opposite party nos. 5 and 6 have filed Misc. Case No. 224 of 2018 under Order XXI Rules 99, 100 & 101 of the Code of Civil Procedure and in the said Misc. case, an order staying further proceedings of the said execution case was passed on condition of payment of a sum of Rs. 8,000/- per month to the decree-holder/petitioner.

The petitioner approached the executing Court with an application to issue writ of delivery of possession on the

allegation that the said opposite parties are not complying with the said condition.

The executing Court was not satisfied with the service of notice of the said application as such declined to pass the order as prayed for although the decree-holder alleged that the application was sought to be served upon the learned advocate representing the judgment-debtor and the said objectors but they refused to accept it.

The petitioner is now praying for the direction upon the executing Court for expeditious disposal of the said execution case.

Further proceedings of the said execution case was stayed subject to the condition of payment of Rs. 8,000/- per month to the decree-holder, the decree-holder is alleging non-payment of the said amount.

An affidavit by the decree-holder of such non-payment is sufficient to proceed with the execution case.

Therefore, in the event the decree-holder files an affidavit stating non-payment of the said amount, the executing Court is requested to proceed with the execution case and to bring it to its logical conclusion within a period of three available effective working months of the said Court without granting any unnecessary adjournment to the parties.

The petitioner is required to communicate this order to the opposite parties.

C.O. 1628 of 2022 is disposed of with the above terms without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)