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C.O. 1836 of 2022

**Ashim Kumar Saha
Vs
Swapan Ghosh & Anr.**

Mr. Sourav Sen,
Ms. Adrishnata Chakraborty.
... For the petitioner.

Mr. Mr. Kushal Chatterjee,
Mr. Abirlal Chakraborty For the opposite parties.

Mr. Sourav Sen, learned advocate appearing for the petitioner disputes with the order impugned dated 2nd April, 2022, passed by the learned Civil Judge (Junior Division) 2nd Court, Barrackpore in Miscellaneous Case No. 12 of 2021, alleging that while granting stay in connection with the referred Misc. Case under Section 47 of the Code of Civil Procedure, the occupation charges, for the possession of the opposite parties in respect of the subject property under reference, has not been granted.

Mr. Abirlal Chakraborty, led by Mr. Kushal Chatterjee, learned advocates appearing for the opposite parties submits that Section 47 was moved upon notice to the petitioner, but even after being noticed, for the reasons best known to the petitioner, decree-holder preferred to remain away, when the stay was granted by the Court below in connection with referred Misc. Case.

Having considered the submission of both sides, it

appears that non-consideration of issue pertaining to occupational charges, while allowing the stay, is only under challenge in this case. Significantly no application praying for occupational charges was filed by the petitioner/decreed-holder before the Court below.

That being the position, the revisional application stands disposed of, giving liberty to the petitioner to file appropriate application, proposing grant of occupational charges, within a fortnight from hence, upon notice to the other side, and if any such application is filed, that shall be duly addressed to by the Court below, within a fortnight thereafter, providing sufficient opportunity of hearing to either of the parties to this case, but without granting unnecessary adjournments, unless it is extremely unavoidable.

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)