

(06)
14.09.2022
(p.jana)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

IA No: CAN 1 of 2022

**In
C.O. No. 1885 of 2022**

**Sri Probhat Dhara & ors.
-versus-
Provat Singha Roy**

Ms. Manideepa (Paul) Roy,
... for the petitioners.

Mr. Pinaki Ranjan Mitra,
... for the opposite party/applicant.

Re : IA No: CAN 1 of 2022.

This is an application seeking modification and/or clarification of the order dated July 14, 2022.

The plaintiffs of Title Suit No. 255 of 2013 were the petitioners of the connected revisional application. The said suit is a suit for eviction of the applicant of the instant application and it is pending before the 3rd Court of learned Civil Judge(Junior Division), Howrah.

The connected revisional application was filed by the plaintiffs of the said suit for a direction upon the learned Trial Judge for expeditious disposal of the said suit and the pending application thereto.

In view of the nature of the order as prayed for the service of notice of the revisional application upon the opposite party was dispensed with and the same was disposed of by the said order dated July 14, 2022 requesting the learned Trial Judge to dispose of an application filed the plaintiffs for striking out the

defence of the defendant in the said suit and also to dispose of the suit expeditiously.

This is an application by the defendant of the said suit, the opposite party to the revisional application seeking clarification and/or modification of the said order on the ground that the plaintiffs of the said eviction suit have also filed a suit being Title Suit No. 73A of 2017 for declaration of their right, title and interest over the suit property which is also pending before the Court where the said Title Suit No. 255 of 2013 is pending. The learned Trial Judge since is hearing the said two suits simultaneously, the eviction suit cannot be disposed of expeditiously keeping the suit for declaration of title pending.

Mr. Pinaki Ranjan Mitra, leaned counsel for the applicant, submits that the application filed by the plaintiffs of both the suits for striking out the defence of his client can be disposed of expeditiously as directed by the order dated July 14, 2022 but the eviction suit cannot be disposed of in isolation, keeping the suit for declaration of title pending.

The learned Trial Judge since is hearing the said two suits simultaneously and the outcome of the suit two suits are intermingled, the learned Trial Judge is requested to make all endeavour to dispose of both the suits expeditiously.

It is however made clear that the application under Section 151 of the Code of Civil Procedure for striking out the defence of the applicant in the eviction

suit must be disposed of in terms and within the time fixed by the order dated July 14, 2022.

IA No: CAN 1 of 2022 is disposed of clarifying the order dated July 14, 2022 to the extent as indicated above.

There shall be however no order as to costs.

Let the matter appear in the list under the heading **“To be mentioned”** one week after the ensuing Puja Vacation of the Court to record compliance.

Parties shall act on the server copy of the order downloaded from the Official Website of this Court.

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

(Biswajit Basu, J.)