

S/L 37
30.9.2022
Court No.652
SD

CO 1754 of 2021

Prabir Kumar Misra
Vs.
Manoj Kumar Sonkar & Anr.

Mr. Shibendra Nath Chattopadhyay
Mr. Priyam Misra

...for the Petitioner.

Affidavit of service filed in court today be kept with the record.

Opposite parties are not represented.

This revisional application under Article 227 of the Constitution of India has been preferred against the order no.80 dated 22.03.2021 passed by the learned Judge, 2nd Bench, Presidency Small Causes Court at Calcutta in Ejectment Execution Case No.73 of 2018.

The petitioner as plaintiff filed Ejectment Suit No.599 of 2016 before the Presidency Small Causes Court at Calcutta against the defendant/judgment debtor on the ground of defaulter and bona fide requirement etc. The said suit ultimately decreed and against the said judgment and decree, the defendant did not prefer any appeal before the appropriate forum. In the meantime, plaintiff has put the decree in execution being Ejectment Execution Case No.73 of 2018.

On 24.01.2019, the Seal Bailiff went to the premises for delivery of possession but the judgment debtor strongly resisted and finding no other alternative decree-holder filed application under Order 21 Rule 97 for police help to assist the Seal Bailiff at the time of delivery of possession of the suit in favour of the decree-holder being Misc. Case No.28 of 2019.

The petitioner contended that the said Misc. Case No.28 of 2019 was filed on the basis of the report of the Seal Bailiff but it is still pending for disposal even though there is no stay in the execution proceeding being No.73 of 2018. Accordingly, petitioner has prayed for expeditious disposal of Ejectment Execution Case No.73 of 2018 pending before the court below.

Having considered the aforesaid facts and circumstances of the case and that the execution proceeding is pending since long and thereby the decree-holder is depriving from getting the fruits of the decree and that prayer made by the petitioner herein is very innocuous, the CO 1754 of 2021 is disposed of with a direction upon the learned Judge, 2nd Bench, Presidency Small Causes Court at Calcutta to dispose of the Ejectment Execution Case No.73 of 2018 as expeditiously as possible preferably within a period of six months from the date of communication of the order.

Since the execution proceeding is pending for a long time, the petitioner prays for imposing the occupational charges upon the defendant/opposite party.

Accordingly, learned trial court is directed in the event of filing any prayer by the petitioner for awarding occupational charges by the petitioner, trial court will also dispose of the said application in accordance with law within four weeks from the date of filing of such application.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Ajoy Kumar Mukherjee, J.)