

20.9.2022
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Ct. no. 652
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C.O. 1756 of 2021

Sri Pranab Kanti Mazumdar
Vs.
Sri Samar Bag

Ms. Somoshree Saha ...for the petitioner

Affidavit of service filed by the petitioner, be kept with the record.

This is an application under Section 227 of the Constitution of India for expeditious disposal of the title suit no. 338 of 2016 pending before the learned Civil Judge (Junior Division), 6th Court, Alipore.

The petitioner contended that the plaintiff/petitioner filed a suit for eviction, recovery of possession, damages and for mesne profit before the learned Civil Judge(Junior Division) being ejectment no. 19947 of 2013 and the said suit was decreed ex parte on 3.6.2014. Subsequently as the opposite party failed to hand over the vacant possession, the said decree was put into execution and on 11.2.2016 the petitioner got possession of the suit premises through court bailiff. The petitioner was in peaceful possession of the property from 11.2.2016 to 29.2.2016. On 29.2.2016 at 10.30 P.M. the opposite party trespassed into the said room and took away valuable articles without the consent of

the petitioner with the help of local miscreants. The petitioner thereafter lodged a complaint and also initiated criminal proceeding against the opposite party/defendant/judgment debtor. Having no other alternative, the petitioner preferred proceeding under Section 6 of the Specific Relief Act being title suit no. 338 of 2016 before the court of the learned Civil Judge (Junior Division), 6th Court, Alipore for a decree of recovery of khas possession.

Learned counsel for the petitioner submits that there is an inordinate delay in disposing of that suit filed under Section 6 of the Specific Relief Act and it is pending since 2016. Accordingly, the petitioner has prayed for expeditious disposal of the aforesaid suit being Title suit no. 338 of 2016. She further submits that on earlier occasion, this court while disposing C.O. 2892 of 2018 was pleased to make direction for expeditious disposal of the said suit, within a period of two months from the date of the communication of order. It is submitted by the petitioner that the said order passed by this court in C.O. 2892 of 2018 has not been complied with.

Having considered the aforesaid facts and circumstances of the case and that a suit under Section 6 mainly depends upon consideration of plaintiff's previous possession and further wrongful dispossession and not upon establishment of plaintiff's title in the

property and that the prayer made, is very innocuous and that the matter has been pending since long from the year 2016 and that in spite of earlier order passed by this court in C.O. 2892 of 2018, trial court has not complied the same, I am of the view that prayer made by petitioner in this application is required to be allowed.

Accordingly, the present application being C.O. 1756 of 2021 is disposed of with a direction upon the trial court to positively dispose of the aforesaid title suit no. 338 of 2016 within a period of six months from the date of receipt of the order without granting any unnecessary adjournment to either of the parties and following the procedure laid down in order XVII Rule 1 of the Civil Procedure Code.

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

(Ajoy Kumar Mukherjee, J.)