

14th June, 2022
(D/L No.28)
(SKB)

W.P.A. 16722 of 2021

Gouranga Kundu
Versus
State of West Bengal and others

Mr. Debdutta Basu,
Mr. Sudip Sarkar
... for the petitioner.

Mr. Siddhartha Banerjee
... for the High Court Administration.

The affidavit of service is taken on record.

The grievance of the petitioner is that despite having a decree in the petitioner's favour from the District and Sessions Court, Krishnagar, Nadia, the petitioner is unable to execute the decree.

Learned counsel submits that the petitioner obtained the decree on 24th July, 2006 which was subsequently set aside in appeal. Revisional application filed by the petitioner thereafter confirmed the decree. The petitioner, however, is not in a position to execute the same since the Lower Court Records are presently not traceable.

Learned counsel appearing for the High Court Administration refers to the provisions of the Code of Civil Procedure as well as the Civil Rules and Orders and submits that furnishing a certified copy of the decree is not mandatory.

Order XXI Rule 11(3) of The Code of Civil Procedure provides that court to which an application is made under sub-rule(2) for execution of a decree may require the applicant to produce a certified copy of the decree. Rule 146 of the Civil Rules and Orders provides that filing of a copy of the decree along with execution petition is not compulsory; however, the court may

require the applicant to produce the certified copy for verifying the correctness of the particulars of the application for execution of the court register. These provisions indicate that it is only the concerned court which may require the certified copy of the decree.

Since counsel appearing for the petitioner submits that the concerned court in this case has refused to execute the decree in the absence of the certified copy, the District Judge, District and Sessions Judge's Court Complex, Krishnagar, Nadia is directed to act on the letter written by the petitioner's advocate on record dated 20th January, 2020 within a period of three weeks from date. The petitioner shall approach the District Judge, Nadia after three weeks to find out the status of the matter. The District Judge and the concerned court shall take into account the provisions stated above and act in accordance therewith.

W.P.A.16722 of 2021 is disposed of in terms of the above.

(Moushumi Bhattacharya, J.)