

21.02.2022
Item No.26
Court No.18
AJ.

C.O. 2602 of 2019
(Via Video Conference)

Sri Prabhat Kumar Das & Ors.
-Vs-
Sri Bhagwan Lal Shaw

Mr. Tauhid Khan,
Mrs. Marufa Mondal,
Mr. Nasim Ahmed.

..... for the petitioners.

Mr. Tarak Nath Haldar.

.....for the opposite party.

The petitioners are the decree-holders of the ex parte decree of eviction passed in Ejectment Suit No. 27 of 2014 by the 2nd Court of the learned Civil Judge (Junior Division), Sealdah.

The defendant/opposite party took out an application under Order IX Rule 13 of the Code of Civil Procedure for setting aside the said ex parte decree being Misc. Case No. 200 of 2018.

In the said misc. case, the learned Trial Judge passed an ad-interim order of stay of all further proceedings of the execution case levied to execute the said ex parte decree.

The petitioners filed an application for fixation of occupational charges as the condition for such stay.

The grievance of the petitioners in the present revisional application under Article 227 of the Constitution of India is that the learned Trial

Judge is not disposing of the said application for fixation of occupational charges.

Mr. Haldar, learned advocate appears on behalf of the defendant/opposite party and submits that by the order dated September 05, 2019 the application for stay filed by the judgment debtor and an application filed by the petitioners for fixation of occupational charges have already been disposed of. He files photocopy of the said order, which is taken on record.

In view of the disposal of the said applications, the revisional application has become infructuous, C.O. 2602 of 2019 is dismissed as such.

It is made clear that this order will not prevent the petitioners to challenge the said order dated September 05, 2019 subject to the law of limitation.

The learned Trial Judge is requested to expedite the disposal of the Misc. Case No. 200 of 2018 in accordance with law.

There shall be no order as to costs.

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

(Biswajit Basu, J.)