

S/L 7
09.9.2022
Court No.652
SD

CO 2528 of 2022

Shaoni Ghosh (nee Das)
Vs.
Deepanwita Roy Chowdhury & Ors.

Mr. S.K. Das
Mr. T.K. Sen
Mr. Sarathi Dasgupta
Ms. Ajeya Choudhury

... for the Petitioner.

Mr. Triptimoy Talukder
Mr. Diptomoy Talukder

... for the Opposite Party Nos.1 and 2.

Mr. Naba Kumar Das
Ms. Diana Ghosh Dastidar

... for the Opposite Party No.4.

Being aggrieved by the order no.28 dated July 30, 2022 passed by the learned Civil Judge (Senior Division), Barasat, North 24-Parganas in Title Suit No.897 of 2019, the present revisional application has been preferred.

It is submitted on behalf of the petitioner that the said suit was instituted on 29.11.2019 before the trial court under the provisions of the Specific Relief Act. Section 20(c) of the said Act deals with the expeditious disposal of suit and it specifically provides that a suit filed under the said provision shall be disposed of by the court within a period of 12 months from the date of service of summons upon the defendant and under the proviso the said period may be extended for a further period not exceeding six months in aggregate after recording reasons in writing for such extension by the court.

Petitioner further submits that the petitioner moved before this court for expeditious disposal of the said suit and this Court while disposing the said revisional application being C.O. 2143 of 2021, was pleased to request the trial court to dispose of the said Title Suit No.897 of 2019 along with all connected applications as expeditiously as possible and in any event within a period of six months from the date of communication of the order, in terms of Section 21(c) of the Specific Relief Act.

Counsel appearing on behalf of the petitioner further submits that the time frame fixed in the said order by this Court has expired long back but still the case is pending and accordingly, he has prayed for issuing rule for transferring the proceedings of the Title Suit No.897 of 2019 from the court of learned Civil Judge (Senior Division), Barasat, North 24-Parganas to this High Court for hearing and final disposal.

Mr. Naba Kumar Das, learned advocate appearing on behalf of the opposite party no.4, submits that the application itself is not maintainable since the application has been made under Article 227 of the Constitution of India but practically he has sought for a relief under Section 24 of the Code of Civil Procedure.

He further points out referring the order sheets that the order in CO 2143 of 2021 was passed on December 23, 2021 and since then the trial court has fixed several dates, that is, on 03.01.2022, 04.02.2022, 11.3.2022, 04.4.2022, 18.5.2022, 03.6.2022, 07.6.2022, 13.6.2022, 27.6.2022,

02.7.2022 and also 30.7.2022. accordingly, it cannot be said that the trial court has not made any attempt to dispose of the case as directed by this court and as such, the present application for transfer has got no substance.

In this context, learned counsel for the petitioner submits that though several dates were fixed for passing order by the Court below but in substance no effective hearing took place on those dates.

Having considered the aforesaid facts and circumstances of the case and submission made on behalf of both the parties, the present revisional application is disposed of with a direction upon the learned trial court to make every endeavour for expeditious disposal of the case and subject to convenience of the court by fixing day to day hearing and to conclude the entire proceeding within a period of six months from the date of communication of the order and without granting any unnecessary adjournment to either of the parties. Be it also mentioned no adjournment will be granted by the trial court for the sake of adjournment and in the event of granting any adjournment, it must be supported by reason.

C.O. 2528/2022 is accordingly disposed of.

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.)