

02.05.2022
(D/L-09)
Ct.-18
(Susanta)

C.O. 2162 of 2021

Shree Shree Iswar Satyanarayanjee Ors.
-Vs-
Sri Surendra Yadav & Ors.

Mr. Pramit Kumar Ray,
Mr. Subrata Sakar,
Mr. Tirthankar Das,
.... For the Petitioners.

Mr. Kushal Chatterjee,
Mr. Debrup Choudhury,
... For the Opposite Parties.

The revisional application under Article 227 of the Constitution of India is directed against the order dated November 22, 2021 passed by the 2nd Court of learned Civil Judge (Senior Division), Howrah in Miscellaneous Case No. 30 of 2021 arising out of Title Execution Case No. 6 of 2006.

The petitioners are the award holders in an arbitration proceeding. The said award has been put into execution in the connected Execution Case.

The opposite parties in the said execution case have filed an application under Section 47 of the Code of Civil Procedure registered as Misc. Case No. 30 of 2021.

Mr. Pramit Kr. Roy learned senior advocate for the petitioners submits that there is no

challenge to the award passed in the year 2006 but the Executing Court only for the pendency of the said application under Section 47 of the Code, by the order impugned has stayed the further proceeding the said execution case.

Mr. Kushal Chatterjee, learned advocate appearing on behalf of the judgment-debtors/opposite parties submits that May 07, 2022 is the next date fixed for further hearing of the said Misc. Case no. 30 of 2021 as such at this stage interference to the order impugned is not necessary.

Heard the learned advocate for the parties, perused the materials on record.

The order impugned is bereft of reason. An order of stay shall not automatically follow on the filing of an application under Section 47 of the Code.

However, the hearing of the said application since is fixed on May 7, 2022, this Court is not inclined to interfere with the order impugned but it is expected that the Executing Court shall dispose of the said Misc. Case no. 30 of 2021 within two weeks from the said date already fixed for hearing of the said application and in doing so shall not grant any unnecessary adjournment to either of the parties.

It is made clear that all points including the point of maintainability of the said application under Section 47 of the Code is kept open.

C.O. 2162 of 2021 is disposed of with the above terms without any 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.)