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C.O. 2645 of 2022

**Madhusudan Chandra
Vs
Sri Sri Radha Krishna Yugal Murti**

Mr. D. K. Adhikari,
Mr. Surya Maity,
Ms. Amrita Maji, ... For the petitioner.

The subject matter of challenge in this case is against the order dated 25th July, 2022 passed in Misc Case No. 13 of 2021 arising out of Title Execution Case No. 10 of 2013, dismissing the case.

Learned advocate appearing for the petitioner submits that the suit has been decided without framing any appropriate issues, required to be formulated.

The decree thus granted in this case, according to the petitioner would be inexecutable for being void.

It is thus contended by the petitioner that there has been erroneous decision reached by the Court below, while dismissing the case without truly adverting to the facts presented and pressed.

Upon perusal of the impugned order, it appears that the decree granted by the trial Court in Title Suit Case No. 162 of 1993 remained undisturbed in the First Appeal, i.e., Title Appeal No. 16 of 2008. In connection with an execution case being invited by the decree holder, an application under Section 47 of the CPC was filed by petitioner/Jdr. that has also been disposed of.

The point taken by the petitioner was agitated on as many as three occasions, i.e., one during trial of the suit, the second one during the appeal and the third one during petition under Section 47 C.P.C.

Upon perusal of the impugned order, it appears that the Court below was not prepared to consider the point raised, so as to stop the execution, on the score that there has been consideration of same point previously.

As per submission disclosed by the petitioner, there has been no Second Appeal preferred in the meantime.

The impugned order being supported by sufficient reasons does not call for any interference.

The revisional application stands disposed of.

(Subhasis Dasgupta, J)