

18.11.2022
23
Ct. no. 652
sb

C.O. 3701 of 2018

Sri Tapan Kumar Karan
Vs.
Sri Uttam Kumar Karan & Ors.

Mr. Sounak Bhattacharya
Mr. Sounak Mondal ...for the petitioner

Being aggrieved by Order nos. 52 and 53 dated 18.5.2018 and 6.8.2018 both passed by the learned Civil Judge, (Junior Division), Haldia, Purba Midnapore in Title Suit no. 215 of 2008, the present revisional application has been preferred under Article 227 of the Constitution of India.

The petitioner contended that the petitioner has filed aforesaid suit for declaration of title and mandatory and permanent injunction against the opposite party herein. In the said suit, the opposite party no. 1 filed an application under Order 39 rule 4 read with Section 151 of the Civil Procedure Code praying for an order of getting electric connection in one room situated at the northern part of the suit premises. Learned court below by order dated 29.6.2015 was pleased to allow the said application permitting the opposite party no. 1 to 4 to take electric connection.

Being aggrieved by the said order dated 29.6.2015, the petitioner had filed revisional application before this court being C.O. 2955 of 2015. While disposing of the said application being C.O. 2955 of 2015, this court on 13.8.2015 was pleased to request the trial judge to dispose of the said suit as expeditiously as possible without granting any unnecessary adjournment to either of the parties and preferably within eight months from the date of the communication of the order. The said order was duly communicated to the Court below.

On 22.12.2016, the petitioner filed an application for local investigation commission. On 3.4.2017 the defendant/opposite party nos. 1 to 4 also filed petition praying for local investigation on additional points but opposite party however, raised no objection regarding the petitioner's prayer for holding local investigation commission. Learned court below by an order dated 30.9.2017 was pleased to allow both the petitions i.e. the petitioner's petition dated 22.12.2016 and defendant's petition dated 3.4.2017 for holding local investigation commission and one survey commissioner was also appointed and court below was further pleased to fix on 12.2.2018 for survey Commissioner's report.

It is further submitted that the petitioner has deposited his share of commissioner's fee amounting to Rs.1000/- on 5.2.2018 but since 12.2.2018, the said suit is pending for commissioner's report. It is also

submitted that the opposite party nos. 1 to 4 have not paid the commissioner's fee and due to default on the part of the opposite parties herein, the commission work is unnecessarily getting delayed. In the above backdrop, the petitioner/plaintiff has prayed for a direction upon the trial court for expeditious execution of the commission work, as well as expeditious disposal of the present suit.

Since the prayer made by the petitioner is innocuous specially in view of the earlier order given by this court in C.O. 2955 of 2015, I dispose of this revisional application being C.O. 3701 of 2018 without serving notice upon opposite party, (as opposite party will also have no cause to prejudice by the order), with a direction upon the learned Civil Judge, Junior Division, Haldia, Purba Midnapore to monitor for the expeditious execution of the commission work by giving necessary directions and he is further directed to make all endeavour to dispose of the suit itself as expeditiously as possible preferably within a period of eight months from the date of the communication of this order.

Accordingly, C.O. 3701 of 2018 is disposed of.

Urgent photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Ajoy Kumar Mukherjee, J.)