

26.04.2022
(D/L-13)
Ct.-18
(Susanta)

C.O. 3927 of 2019

Smt. Gita Pradhan & Ors.

-Vs-

Contai Co-operative Bank Ltd. & Ors.

Mr. Asit Baran Routh,
Mr. Nirmalendu Patra,
Mr. Debnarayan Patra,

.... For the Petitioners.

Mr. Sayed Nurul Afrin,
Mr. Masud Mallik,
Ms. Oly Maiti,

... For the Opposite Parties.

The revisional application under Article 227 of the Constitution of India is directed against the order no. 246 dated September 12, 2019 passed by the 2nd Court of learned Civil Judge (Senior Division), Paschim Medinipur in J. Misc. Case No. 13 of 1991.

In execution of an award passed by the Registrar of Co-operative Society, Contai, Medinipur, the suit property was sold on April 17, 1967 in the Mortgage Execution Case No. 17 of 1966.

The petitioners have filed an application under Order XXI Rule 90 of the Code of Civil Procedure for setting aside of the said sale on the ground of fraud in the said Mortgage Execution Case being No. J. Misc. Case no. 13 of 1991.

The Executing Court by the order impugned has dismissed an application filed by the

petitioners seeking amendment of the said application under Order XXI Rule 90 of the Code.

The Executing Court without deciding the said application on merit has dismissed it solely on the ground that the said Misc. Case has been directed to be disposed of expeditiously by an order passed by the High Court in C.O. 1196 of 2007.

The direction for expeditious disposal by itself cannot be a ground for dismissal of any interlocutory application inasmuch as notwithstanding such direction, the Court is obliged to decide all interlocutory applications on merit as the said direction is for disposal of the main *lis* and the pending applications thereto.

The application for amendment therefore is required to be decided on merit.

The order impugned is set aside.

The executing Court is directed to decide the said application on merit in accordance with law.

C.O. 3927 of 2019 is allowed 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.)