

12
sandip
Ct. 18
19.04.2022

C.O. No. 4163 of 2019
I.A. No : CAN 1 of 2021

Netaji Balak Sangha
Vs.
Smt. Meena Singh & Anr.

Mr. Nilanjan Bhattacharjee,
Mr. Arpan Guha ... For the petitioner.

Mr. Palash Mukherjee ... For the opposite parties.

The revisional application under Article 227 of the Constitution of India is at the instance of the defendant in a suit for eviction of licensee and is directed against Order No. 15, dated July 15, 2019 passed by the 4th Court of learned Civil Judge, (Junior Division) at Howrah in the said suit being Title Suit No. 733 of 2016.

The petitioner filed a suit being Title Suit No. 96 of 1998 before the 4th Court of learned Civil Judge (Junior Division) at Howrah for declaration of his tenancy right over the suit property. The said suit was dismissed and an appeal against the decree dismissing the said suit is pending.

The opposite parties in the meantime have filed the connected suit for eviction of the petitioner from the suit property describing him as a trespasser in the suit property.

In the said suit the petitioner filed an application under Section 10 of the Code of Civil Procedure

praying stay of all further proceedings of the connected suit till the disposal of the said appeal. The learned Trial Judge by the order impugned has dismissed the said application.

In the event the petitioner is successful in establishing his right over the suit property as tenant thereof in the said appeal, it would be open for him to question the maintainability of the suit for eviction describing him as a licensee, therefore detention of the said suit for eviction till the disposal of the said appeal is unwarranted.

The learned trial Judge has not committed any error in dismissing the said application under section 10 of the Code.

The order impugned, therefore, does not call for any interference.

C.O. 4163 of 2019 is dismissed without any order as to costs.

In view of the dismissal of the revisional application the connected application being I.A. No : CAN 1 of 2021 for extension of interim order has become infructuous and is dismissed as such 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.)

