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Ct. 18
23.08.2022

C.O. No. 4208 of 2019
I.A. No : CAN 1 of 2021

Mahadeb Halder & Anr.
Vs.
Tutun Nag & Ors.

Mr. Dipta Bhanu Dutt,
Mr. Debasish Das,
Mr. Biswarup Chatterjee ... For the petitioners.

Mr. Tanmoy Mukherjee,
Mr. Biswajit Choudhury,
Mr. Souvik Das,
Mr. K. Raihan Ahamed,
Mr. Rudranil Das ... For the opposite parties.

The revisional application under Article 227 of the Constitution of India is directed against the order dated April 05, 2019 passed by the 2nd Court of learned Civil Judge (Junior Division) at Krishnanagar, District – Nadia in Title Execution Case No. 08 of 2018.

The petitioners being the decree-holders of the decree passed by 2nd Court of learned Civil Judge (Junior Division) at Krishnanagar, District – Nadia in Title Suit No. 73 of 2014 put the said decree into execution giving rise to the connected execution case.

The Executing Court by the order impugned has dismissed the said execution case.

The decree under execution is a decree of permanent injunction. The explanation appended to Order XXI Rule 32(5) of the Code of Civil Procedure

clarifies the doubt, if there be any, as to the executability of a decree of prohibitory injunction.

The prayer of the petitioner for grant of police help under Rule 208 of the Civil Rules and Orders or execution of the said decree through Court bailiff are misconceived steps, nonetheless the same cannot result in dismissal of entire execution case inasmuch as the decree-holders complaining disobedience of the decree of injunction, are entitled to put the said decree into execution in the manner and mode provided under the Code.

Title Execution Case No. 8 of 2018 is hereby restored to its original file and number.

C.O. 4208 of 2019 is disposed with the above observations without any order as to costs.

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This is petitioners' application for injunction.

In view of the disposal of the revisional application, no further order need be passed on this application.

I.A. No : CAN 1 of 2021 is thus disposed of 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.)