

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
Appellate Side**

10.06.2022

Item no. **03**

Dd

CO 13 of 2022

**Sri Subal Chandra Mazumdar & Anr.
Vs.
Sri Soumen Saha & Ors.**

*Mr. Narendra Nath Das,
Mr. Pragyadip Roy Basunia, Advocates
... ... For the Petitioners*

The revisional application is directed against Order no. 3 dated January 15, 2022.

Learned advocate appearing in support of the petition submits that the learned Judge did not possess the requisite permission to grant interim order. Moreover, the necessary ingredients to invoke Section 47 of the Code of Civil Procedure, 1908 are not pleaded in the plaint to purport Section 47 of the Code of Civil Procedure, 1908.

None appears for the Opposite Parties despite service. Affidavit-of-service filed in Court be taken on record.

By the impugned order, the learned Single Judge was pleased to entertain an application under Section 47 of the Code of Civil Procedure, 1908 and pass an interim order of stay of execution proceeding. Learned Executing Court is yet to decide the maintainability of Section 47 application and to pass a final order therein.

In such circumstances, in my view, interest of justice would be subserved by requesting the learned Executing Court to dispose of the application under Section 47 of the Code of Civil Procedure, 1908 as expeditiously as possible and preferably within a period of two months from date of communication of this order. All points at the behest of the petitioners are kept open.

CO 13 of 2022 is disposed of accordingly.

(Debangsu Basak, J.)