

IN THE HIGH COURT AT CALCUTTA**(Civil Revisional Jurisdiction)****Appellate Side**

Present:

The Hon'ble Justice Bibhas Ranjan De**C.O. 645 of 2023****Pradip Chakraborty & ors****Vs.****Tapati Das & Ors.**

For the Petitioners

:Mr. Ranjit Kumar Jaiswal, Adv.

Mr. Nandalal Pradhan, Adv.

For the Opposite parties

:Mr. Sounak Bhattacharya Adv.

Mr. Sounak Mondal, Adv

Heard on

: April 03, 2023

Judgment on

: April 04, 2023

Bibhas Ranjan De, J.

1. The order dated 20.01.2022 passed in T.Ex 01 of 2019 by the learned Civil Judge, (Junior Division), 1st Court Bolpur directing execution of the orders/ decree in connection with Title suit no. 06 of 1992, has been challenged.

- 2.** Learned advocate appearing on behalf of the petitioner/judgement debtors has contended that predecessor in interest of the opposite parties filed a Title Suit being no. 06 of 1992 against the petitioners/ judgement debtors. That suit was dismissed. An appeal being no. TA 31 of 2012 was preferred by the predecessor in interest of the opposite parties/decree holders. Said appeal was heard by the Learned Civil Judge, Senior Division and set aside the judgment and remanded the same to the Trial Court for decide the same afresh. Thereafter, on 29.09.22018 said suit was decreed on contest.
- 3.** Being aggrieved petitioners/judgment debtors preferred an appeal being no. TA. 26 of 2019 before the Learned Additional District Judge, Bolepur who dismissed the appeal on the ground of 'non-joinder of necessary parties'.
- 4.** Thereafter, being aggrieved, petitioners/Judgement debtors again preferred an appeal being no 45 of 2019 along with Section 5 which was duly admitted.
- 5.** Meanwhile, opposite parties /decree holders put the decree into execution being no. T. Ex no. 01 of 2019 wherein Learned

Civil Judge, (Junior Division), 1st Court, Bolepur proceeded with the execution proceeding in absence of any stay order.

- 6.** In the meantime, opposite parties/decreed holders challenged the order of admission of appeal being no. 45 of 2019 passed by the Additional District Judge Bolpure in CO No. 1247 of 2022 wherein Hon'ble Court recorded an order of stay of all further proceeding of Title Appeal No. 45 of 2019.
- 7.** Learned advocate on behalf of the petitioners/ judgement debtors has contended that opposite parties /decree holders preferred revision application being no. C.O 1247 of 2022 and obtained an order of stay of the appeal being no. 45 of 2019 in one hand and on the other proceeded with the execution case being no. T. Ex 01 of 2019 even during pendency of that revision application being no. CO 1247 of 2022.
- 8.** Learned advocate on behalf of the opposite parties/decreed holders has contended that execution case is being proceeded with in absence of any stay order.
- 9.** On careful scrutiny of the entire records and orders, I find the Title Appeal being no. 45 of 2019 will be infructuous prior to its disposal on merit if T. Ex. No. 01 of 2019 is allowed to be

proceeded with. Moreover, admittedly, revision application being no. Co 1247 of 2022 has not yet been disposed of.

- 10.** Considering this trying situation, no option is left to this Court but to stay of all further proceeding of T. Ex. No. 01 of 2019 till the disposal of the appeal being no. 45 of 2019 subject to decision of the revision application being CO 1247 of 2022.
- 11.** Accordingly, order dated 20.01.2023 passed in Title Execution No. 01 of 2019 stand set aside. C.O No. 645 of 2023 stands disposed of.
- 12.** Let copy of this order be communicated to the Learned Executing Court for information.
- 13.** All parties to this revisional application shall act on the server copy of this order downloaded from the official website of this Court.
- 14.** Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.