

Item No. 10
13.12.2023
Court. No. 19
GB

C.O. 725 of 2023

Mohan Kumar
Vs.
Madan Kumar & Anr.

Mr. Sandip Das

...for the Petitioner.

By an order dated January 18, 2023, the learned Civil Judge (Junior Division), 1st Court at Diamond Harbour, refused to stay Title Suit No.26 of 2014.

This Court is of the view that the order impugned is erroneous. Title Suit No.26 of 2014 is a prior suit. The learned court was of the view that the prior suit could not be stayed. The suit is for eviction of the petitioner, recovery of khas possession upon revocation of permissive possession. The petitioner filed a later suit in the same court, praying for partition, being Title Suit No.262 of 2018.

It appears that although the eviction suit is at the stage of evidence, Title Suit No.262 of 2018 is at a preliminary stage.

This Court is of the view that as the subject matter of the two suits is the same and the parties are also the same, both the suits should be heard analogously, in order to avoid multiplicity of proceedings.

Under such circumstances, this Court is of the view that the learned court should make serious endeavour to expedite the partition suit and bring it to the stage at which the eviction suit is and proceed with the suits analogously.

The evidence shall be recorded together. The suits should be disposed of preferably within a period of one year.

Accordingly, the revisional application is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)