

01.09.2023
Sl. No.8(DL)
srm

C.O. No. 787 of 2022

Sri Ashim Das

Versus

**Sri Ram Niranjana Dhanuka (since deceased) represented
by Sri Surendra Dhanuka & Ors.**

Mr. Prabal Kr Mukherjee,
Mr. Soumik Ganguli,
Mr. Supriyo Shasmal

...for the Petitioner.

Mr. Tanmoy Mukherjee,
Mr. Amal Kumar Saha,
Mr. Irish Paul,
Mr. Souvik Das,
Mr. Rudranil Das,
Mr. Soumava Santra

...for the Opposite Party Nos.1(a), 1(b) & 1(c).

The revisional application arises out of an order dated March 14, 2022 passed by the learned Civil Judge (Junior Division), Additional Court, Sadar, Bankura, in Title Suit No.34 of 2018.

One of the plaintiffs in Title Suit No.58 of 2006, which is pending before the learned Civil Judge (Junior Division), 1st Court, Bankura (who is the defendant No.2 in Title Suit No.34 of 2018) prayed for stay of Title Suit No.34 of 2018 on the ground that the prior suit for declaration of tenancy and other reliefs should be disposed of first.

The said application was rejected by the learned court below on the ground that the issues to be determined in the respective suits and the reliefs claimed were not interconnected and the decision in the later suit, would not render the prior suit as infructuous.

Mr. Probal Kr Mukherjee, learned Senior Advocate appearing on behalf of the petitioner, submits that his client and others filed Title Suit No.58 of 2006 for declaration of tenancy in respect of 'Kha' schedule property, which is situated at holding No.15.

The opposite parties/plaintiffs in Title Suit No.34 of 2018 filed a counter-claim in Title Suit No.58 of 2006 praying for recovery of possession. Mr. Mukherjee places the prayers in the plaint of Title Suit No.58 of 2006 to substantiate his contention that the declaration of the status and interest of the plaintiffs in the said suit in relation to the property in question, had a direct connection with the prayers made by the plaintiffs in Title Suit No.34 of 2018. The dispute was in relation to the self-same property. Mandatory injunctions were prayed for disconnection of electric supply which was being enjoyed by Mr. Mukherjee's client who claimed to be tenants. Unless the right, title and interest of the tenants were decided along with counter-claim for recovery of possession, the tenants were

entitled to reside in the premises and enjoy the electricity connection. If the later suit is disposed of prior to determination of the issues in Title Suit No.58 of 2006, in that event, the tenants would suffer irreparable loss and injury and would have to go without electricity. Hence, Title Suit No.34 of 2018 should be stayed till the determination of status and interest of the respective parties in respect of the 'Kha' schedule property situated in holding No.15.

Mr. Tanmoy Mukherjee, learned Advocate appearing on behalf of the opposite party Nos.1(a), 1(b) and 1(c) and plaintiffs in Title Suit No.34 of 2018, submits that the prayers in the said suit relate to holding No.16. Disconnection of electricity supply effected by the West Bengal State Electricity Distribution Company Ltd. in holding No.16 has been prayed for in the suit. The prior suit is in respect of holding No.15. The suit properties are different. Right of Mr. Probal Mukherjee's client with regard to the tenancy would be decided in respect of the 'Kha' schedule property situated at holding No.15. The electricity connection in holding No.16 was the subject matter in Title Suit No.34 of 2018. The prayers were strictly restricted to the electricity connection at holding No.16.

Having gone through the records, it appears to this Court that in an earlier proceeding, direction was passed by

this Court to effect electricity connection in favour of the petitioners, plaintiffs in Title Suit No.58 of 2006 which was pending for declaration of tenancy with a counter-claim for recovery of possession. The contention of the plaintiffs in Title Suit No.34 of 2018 is that the West Bengal State Electricity Distribution Company effected connection in holding No.16, instead of holding No.15. Hence, the suit was filed with prayers for removal of electricity lines from holding No.16. The correctness of such contention will be decided in the suit.

Thus, although the suit properties may be different and distinct, it is the plaintiffs' case in the later suit that the electricity connection ought to have been installed in holding No.15 instead of holding No.16. The electricity connection allegedly given in holding No.16 is being used by the plaintiffs in Title Suit No.58 of 2006, upon the same being installed by the direction of the court. In my opinion, in the event the later suit is decreed first, removal of the electricity connection upon adjudication of Title Suit No.34 of 2018 will affect the usage of electricity by the plaintiffs in Title Suit No.58 of 2006.

Thus, this Court is of the view that both the suits should be heard analogously. The status of the tenants, the right of the landlord to recover possession and the enjoyment of electricity are interconnected in this case.

Accordingly, the order impugned is set aside. Both the title suits being Title Suit No.58 of 2006 and Title Suit No.34 of 2018 shall be heard analogously.

It appears that Title Suit No.58 of 2006 is pending before the learned Civil Judge (Junior Division), 1st Court, Bankura and Title Suit No.34 of 2018 is pending before the learned Civil Judge (Junior Division), Additional Court, Sadar, Bankura. The learned District Judge, Bankura, is directed to withdraw Title Suit No.34 of 2018 from the court of the learned Civil Judge (Junior Division), Additional Court, Sadar, Bankura, and assign the same to the learned Civil Judge (Junior Division), 1st Court, Bankura. Both the suits shall be decided analogously by the said court. Upon receipt of records, notices shall be issued to the parties by the said court and the proceedings shall commence from the stage they were in. The learned court below is directed to dispose of both the suits within a period of one year from date.

The revisional application is, thus, disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)