

S/L 13
13.4.2023
Court No.652
SD

CO 780 of 2021

Sri Ramaprasad Hati & Ors.
Vs.
Sri Tapas Mondal & Ors.

Mr. Debashis Banerjee
Mr. Rakesh Jana

...for the Petitioners.

This is an application under Article 227 of the Constitution of India seeking expeditious hearing of application filed by the defendants/petitioners herein under Order VII Rule 11 of the Code of Civil Procedure.

The petitioners contended that the opposite parties as plaintiffs filed aforesaid Title Suit No.114 of 2019 and in the said suit plaintiffs filed application for injunction and they have obtained an ex parte order of status quo upon deliberate and willful suppression of material facts with regard to the pendency of the proceedings before the appropriate forum under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter called as 'SARFAESI Act of 2002') involving the scheduled property.

The defendants in the said suit appeared and filed application under Order VII Rule 11 of the Code of Civil Procedure contending that the suit is barred under Section 34 read with Section 13 of SARFAESI Act of 2002 on 17.11.2020. Since then the said application has not yet been disposed of by the court below.

Since the prayer made by the petitioners is innocuous and if an order is passed in terms of the prayer made in the application, the opposite parties will have no cause to prejudice, accordingly, service of copy of the revisional application as well as notice upon the opposite parties is dispensed with.

Considering the long pendency of the said application and the prayer made by the petitioners is justified, learned Civil Judge (Senior Division), Arambagh, Hooghly is directed to dispose of the defendants' application under Order VII Rule 11 of the Code of Civil Procedure which was filed on 17.11.2020, within a period of twelve weeks from the date of communication of the order.

Accordingly, CO 780 of 2021 is disposed of.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Ajoy Kumar Mukherjee, J.)