

June 6, 2023
Sl. No.A 24
Court No.19
s.biswas

CO 1234 of 2023

Samiran Kumar Dinda
vs.
Smt. Gouri Maity and others

Mr. Tanmoy Mukherjee
Mr. Rudranil Das

... for the petitioner

The petitioner is the decree holder of Original Suit 5 of 2001. The said decree was passed in favour of the petitioner on July 31, 2017. An appeal was preferred by the judgement debtor being Title Appeal no.6 of 2017. The same was dismissed and the judgment and decree passed in Original Suit No.5 of 2001 was upheld in the First Appeal. Thereafter Second Appeal was preferred by the opposite party and such appeal was registered as SAT 423 of 2017.

The Second Appeal which was taken up for hearing under Order 41 Rule 11 of the C.P.C., was not admitted by order dated December 12, 2019.

Hence, the decree granted in favour of the petitioner by the learned trial court, attained finality. Thereafter, the petitioner put the decree into execution by filing Other Execution Case No.2 of 2017. The judgment debtors/opposite parties contested the execution case. They also filed an application under Order 21 Rule 97 of the C.P.C.,

which was registered as Judicial Misc. Case No.17 of 2018.

The petitioner submits that several adjournments had been granted by the learned Civil Judge (Junior Division), 2nd Additional Court at Contai and the Judicial Misc. Case No.17 of 2018 is still pending.

According to Mr. Mukherjee, learned advocate for the petitioner, the judgment debtors have not been appearing to contest the Judicial Misc. Case No.17 of 2018, but the learned court below had been continuously granting adjournments.

The petitioner has made an innocuous prayer for expeditious disposal of the application being Judicial Misc. Case No.17 of 2018 filed under Order 21 Rule 97 of the Code of Civil Procedure. Thus such order will not cause any prejudice to the opposite party.

The revisional application is disposed of with direction upon the learned Civil Judge (Junior Division), 2nd Additional Court at Contai to dispose of the Judicial Misc. Case No.17 of 2018 filed in connection with Title Execution Case No.2 of 2017 within a period of three months from the next date fixed.

This Court has not gone into the merits of the claim of the petitioner. This Court has also not

expressed any opinion with regard to the merits of the execution case. The learned court below shall proceed in accordance with law.

A copy of this revisional application along with sever copy of this order be served upon the opposite party within a period of a week from date.

All the parties and the learned court below shall act on the basis of server copy of this order.

(Shampa Sarkar, J.)