

17.08.2023
Sl. No.7(DL)
srm

C.O. No. 1568 of 2023
Smt. Laxmi Debi Gupta (Goel)
Versus
Sri Anup Kumar Kundu & Ors.

Mr. Arijit Sarkar,
Ms. Prajaaini Das

...for the Petitioner.

Mr. Aritra Basu,
Ms. Anshumala Bansal,
Ms. Prarthan Singha Roy

...for the Opposite Parties.

The revisional application has become infructuous in view of the subsequent orders passed by the learned Civil Judge (Junior Division), Bidhannagar, North 24-Parganas, in Title Execution Case No.02 of 2021.

It appears that on an application under Rule 208 of the Civil Rules and Orders, police help was granted to the decree-holder to take possession of the property. The said order is under challenge before this Court.

It is submitted that the possession has been taken by the decree-holder. The property has been demolished.

The application filed by the judgment-debtor for an injunction restraining demolition has been rejected and the

application for stay of all further proceedings in execution case has also been rejected.

It is also submitted that an application under Order IX Rule 13 of the Code of Civil Procedure has been filed for setting aside the *ex parte* decree and a first appeal has also been filed against the said *ex parte* decree.

The petitioner is at liberty to pray for necessary interim orders before the appropriate court. Further, the petitioner's remedies under the Civil Procedure Code under such fact situation are left open.

Although, this Court is of the view that the application under Rule 208 was not the proper course available to the decree-holder seeking police help for execution of the decree but at this stage, when further developments have taken place and the decree-holder has taken possession, the question of setting aside such order and granting an interim protection would not arise. The petitioner will have to approach the appropriate forum for necessary reliefs. If any application is filed seeking protection of the property to the effect that third party interests are not created till the *lis* is decided, such application shall be taken up and disposed of by the learned court below.

The revisional application is disposed of without any interference.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)