

S/L 11
18.5.2023
Court No.652
SD

CO 1406 of 2021

Masura Khatun
Vs.
Sri Gobindadas Pal & Ors.

Mr. Bhudeb Chatterjee

...for the Petitioner.

Affidavit of service filed by the petitioner in court today be kept with the record.

In spite of service, opposite parties are not represented.

This is an application under Article 227 of the Constitution of India preferred against Order No.10 dated 08.3.2021 and Order No.12 dated 28.04.2021 passed by the learned Civil Judge (Junior Division), 2nd Court, Chinsurah, Hooghly in Pre-emption Misc. Case No.17 of 2019.

The petitioner herein contended that the opposite parties being opposite party nos.1 and 2 jointly filed a composite application under Section 8 and 9 of the West Bengal Land Reforms Act, 1955 (Act of 1955) seeking pre-emption over a bastu land but the court below wrongly registered the said pre-emption case which is in fact not permissible.

He further submits that out of total consideration amount of Rs.17,08,335/- and 10% of the compensation amount, the pre-emptor has deposited only Rs.33,000/- and prayed for time which has been granted by the court below. He further submits that the application for pre-emption was filed long after the statutory period of four months and as such, from the contents of the application, it appears that the pre-emption application is barred by limitation.

He further submits that he has filed one application under Order VII Rule 11(d) of the Code of Civil Procedure seeking rejection of the pre-emption application on the ground mentioned therein.

Petitioner's main allegation in the present application is that the court below without disposing the said application filed under Order VII Rule 11(d) of the Code of Civil Procedure granting time to the defendants/opposite parties one after another for depositing of the rest consideration amount. Accordingly, learned counsel for the petitioner seeks for a specific direction upon the court below for urgent disposal of the petitioner's aforesaid application filed under Order VII Rule 11(d) of the Code of Civil Procedure.

Since the prayer made by the petitioner is very innocuous and the prayer made by the petitioner for expeditious disposal of the said application is quite justified as the said application pending since December 16, 2020, the present application being CO 1406 of 2021 is disposed of with a direction upon the court below to dispose of the petitioner's application under Order VII Rule 11(d) of the Code of Civil Procedure dated 16.12.2020 within a period of twelve weeks from the date of communication of the order.

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.)