

02.08.2023
Court No. 19
Item No.73
CP

C.O. 1619 of 2023

Smt. Jayabati Ghosh & ors.

Vs.

Smt. Mamoni Ghosh & ors.

Ms. Smita Pal

...for the petitioners.

The petitioners are the defendants in Title Suit No. 152 of 2006, which is pending before the learned Civil Judge (Senior Division), Chinsurah, Hooghly.

The petitioners submit that the suit is for declaration and injunction. The petitioner prays for expeditious disposal of the said suit. It is further submitted that an application for addition of the heirs of the sole plaintiff (since deceased) is pending. It is also stated that an application under Order 26 Rule 13 of the Code of Civil Procedure is also pending.

The preliminary decree was passed in January 2016 but thereafter, there has been no development in the matter. Even the application for appointment of partition commissioner is still pending.

The prayer of the petitioner is innocuous. Neither party stands to lose if a proceeding is disposed of expeditiously. In fact, such expeditious disposal shall enure to the benefit of the parties and

hence, there is no requirement for service of prior notice upon the opposite parties.

The revisional application is disposed of with a direction upon the learned court below to dispose of the application under Order 1 Rule 10 of the Code of Civil Procedure within a period of one month from the next date fixed, upon taking necessary steps for adding the heirs of the sole plaintiff. The application for appointment of partition commissioner shall be disposed of within the next two months. Thereafter, the final decree will be passed within a period of four months from completion of the commission work. Adequate opportunity should be given to the parties to contest the said applications.

This order shall not be treated as an opinion of this court on the claim of the defendants with regard to the shares of the parties. This court has not expressed any opinion on the merits of the pending applications and also on the merits of the suit. The learned court shall proceed independently and in accordance with law.

A copy of the revisional application along with a server copy of this order be served upon the opposite parties and/or the learned advocates contesting the matter on behalf of the opposite parties in the learned court below, within a week.

The revisional application is accordingly disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)