

Item No. 98
15.06.2023
Court. No. 19
GB

C.O. 1819 of 2023

Magnet Construction Pvt. Ltd. & Anr.
Vs.
Abul Kalam & Ors.

*Mr. Haradhan Banerjee,
Md. Nurul Haque,
Mr. Manabendra Thakur,
Sk. Afrojul Haque,
Mr. Bamkim Sarkar*

...for the Petitioners.

*Mr. Sandip Ghose,
Mr. Partha Chakraborty,
Mr. Subrata Das,
Mr. Debayan Ghosh,
Ms. Poulomi Dutta*

...for the Opposite Parties.

This is an application challenging an order refusing grant of adjournment to the petitioners in Misc. Appeal No.55 of 2023 which is pending before the learned Additional District Judge, 7th Court at Alipore, District – 24 Parganas (South).

The petitioners prayed for adjournment of the misc. appeal.

The petitioners contended before the learned lower appellate court that till C.O. 1077 of 2023 is disposed of by the High Court in view of the question raised by the petitioners therein, the proceedings in the misc. appeal should be stayed. The question was whether pending disposal of an application under Order 7, Rule 11 of the Code of Civil Procedure in Title Suit No.5038 of 2022, the Misc Appeal arising out of an order refusing injunction should proceed. Contention is that the maintainability of the suit will be prejudged in the Misc Appeal.

By virtue of the order already passed by this Court in C.O.0177 of 2023, the challenge to the order dated June 5, 2023 passed by the learned lower appellate court in Misc. Appeal No.55 of 2023 does not survive and hence, the revisional application is disposed of accordingly, without any further orders.

However, there will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)