

December 6, 2023
Sl. No.18
Court No.19
s.biswas

CO 1826 of 2023

Shri Bablu Singha

vs.

Shri Subhra Prakash Das

Mr. Shibasis Ghosh

Mr. Dwarikanath Mukherjee

Mr. Sujit Bhunia

Mr. Gourab Ghosh

... for the petitioner/defendant

Mr. Nilanjan Bhattacharya

Mr. Abhilash Chatterjee

Mr. Saikat Dey

... for the opposite party/plaintiff

The order dated April 26, 2023 passed by the learned Civil Judge (Junior Division), 1st Court, Paschim Medinipur in title Suit No.15 of 2013 is the subject matter of challenge in this revisional application.

The learned advocate for the defendant submits that the order dated April 26, 2023 suffers from the following irregularities:

- a) The learned receiver had handed over the keys to the plaintiff, thereby putting the plaintiff in charge of the premises in question. Although, the direction of the Hon'ble High Court in several rounds of litigation was that the plaintiff would be in possession of the property under the receiver.
- b) The learned Trial Judge erred in directing the receiver to hand over the keys to the plaintiff

in respect of the suit premises, with a direction that the plaintiff will remain responsible to maintain suit premises in present condition till disposal of the suit, although the order of the High Court was that the property would be custodia legis.

Mr. Bhattacharya, learned advocate appearing on behalf of the plaintiff, opposes such submission of Mr. Ghosh and submits that the learned court below had taken note of all the directions passed by the High Court and had directed as follows:

- a) The receiver shall hand over the keys to the plaintiff in respect of the suit premises.
- b) The plaintiff shall remain responsible to maintain the suit premises in its present condition.
- c) The plaintiff shall remain in possession of the premises under the receiver, till disposal of the suit.

Having heard the rival contention of the parties, this court finds that the only modification that is necessary in the order impugned is that the learned receiver shall visit the premises and affix a lock on the premises in question and take a set of keys and keep the same in his possession. The other set shall

remain with the plaintiff. The learned receiver shall be entitled to make spot visits once in four months to see that the premises are maintained by the plaintiff. The necessary remuneration of the learned receiver will be borne by the plaintiff. The learned court below shall fix the date when the learned receiver shall undertake the exercise of affixing the lock and also the quantum of fees to be paid to the learned receiver for such purpose. When the learned receiver visits the premises, a report of the condition of the premises shall be prepared and filed in court. The plaintiff shall not change the nature and character or cause any construction which could diminish the condition of the property. The learned court will also fix the fees for the visits of the learned receiver once in four months to be borne by the plaintiff.

This court is of the view that the suit should be expedited and disposed of within a year from the date of communication of this order.

The revisional application is accordingly disposed of.

There shall be no orders as to costs.

Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)