

02.08.2023
Court No. 19
Item No.178
CP

C.O. 2115 of 2023

M/s. Gemini Iron & Metal Company

Vs.

MSTC Limited

Mr. Sukanta Chakrabarty

Mr. Anindya Halder

...for the petitioner.

Mr. S.P. Mukherjee

Mr. Shuvajit Bose

.....for the opposite party.

This revisional application has been filed seeking expeditious disposal of the application for maintainability filed in Title Execution Case No. 10753 of 2013 arising out of Title Suit No. 73 of 2001, which is pending before the learned Civil Judge (Senior Division), 8th Court, Alipore.

It is submitted by Mr. Chakrabarty, learned advocate for the petitioner, that by an order dated July 10, 2019, a Coordinate Bench of this court had directed that an application for maintainability which was filed by Mr. Mukherjee's client/award debtor in the Title Execution Case, should be disposed of within a period of four weeks. It is submitted that the said application has not yet been disposed of on the ground that the presiding officer was under order of transfer.

Mr. Mukherjee, learned advocate for the opposite party, submits that the parties appeared

and argued the matter on three occasions but thereafter, several presiding officers have been transferred. It is also submitted by Mr. Mukherjee that on earlier rounds, the application for maintainability was heard, order was passed and, thereafter, recalled. Ultimately, this court had directed the application should be heard within four weeks. The application has been pending since then.

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 party.

Having heard the contentions of the learned advocate for the respective parties, this court is of the view that the parties are interested to get the matter heard out. However, business of the court did not permit disposal of the application.

Under such circumstances, as both the parties are suffering due to the prolonged litigation, this court directs that the presiding officer-in-charge of the court before which the said Title Execution Case is pending, shall dispose of the maintainability application within a period of two months from the date of communication of this order, upon granting

adequate opportunity to the parties to contest the same.

All the parties shall make every endeavour to ensure that the maintainability application is disposed of within the time frame fixed by this court. In case the execution case is found to be maintainable, the same shall be disposed of within the following three months.

The parties will be at liberty to file a put up application with the server copy of this order so that the dates may be fixed.

This court has not expressed any opinion on the merits of the application as also the execution case. 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 learned advocate-on-record for the opposite party within this 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.)