

Item No. 15
25.09.2023
Court. No. 19
GB

C.O. 2227 of 2023

Manju Rani Jana @ Manju Jana
Vs.
Smt. Purnima Devnath & Ors.

*Mr. Soumik Ganguli,
Ms. Chandana Chakraborty*

...for the Petitioner.

The petitioner is aggrieved by an order dated March 20, 2023, passed by the learned Civil Judge (Junior Division), 1st Additional Court at Contai, Purba Medinipur in J. Misc. Case No.08 of 2023. J. Misc. Case No.08 of 2023 was filed in an execution proceeding under Order 21 Rules 97, 98, 99, 100 and 101, by the daughter of the judgment debtor.

The daughter of the deceased Barun Debnath filed the Misc. Case alleging that she was not intentionally added as a defendant in the suit although, her brothers had been added, only oust her from the decreetal property. The learned court, upon perusal of the application filed in the misc. case, considered the submissions of the daughter/applicant that she was in possession of the property and that the suit was decreed in collusion between the plaintiff/deGREE-holder and her brothers, exercised discretion and stayed the execution.

It appears that the said order was passed by the learned court below without directing service of the copy of the application upon the decree-holder. It also appears that the order was passed on the basis of a put up petition.

In my opinion, the contention of Mr. Ganguli may be justified, that is, an opportunity should have been given to the decree-holder to contest the prayer for stay. However, in order to save the time, which will enure to the benefit of the decree-holder, this Court is of the view that instead of keeping this revisional application pending, Misc. Case No.08 of 2023 should be disposed of mandatorily within two months from the next date fixed. The objection to the said misc. case shall be filed by the decree-holder within two weeks from date.

It is made clear that no adjournment should be given to any of the parties. The time period fixed is mandatory.

This Court has not gone into the merits of the pending proceedings. The learned court below shall proceed independently and strictly in accordance with law.

This order of the Court shall be communicated to the learned lower appellate court, by the learned advocate on record for the petitioner, by filing an application upon service of the said application upon the opposite parties. The parties shall be ready for hearing of the misc. case on the next date.

Accordingly, the revisional application is disposed of.

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

(Shampa Sarkar, J.)