

31.7.2023
16
Ct. no. 652
sb

**CO 2280 of 2023
(Assigned Matter)**

**State of West Bengal
Vs.
Samar & Samar Infrastructure Development
Private Limited & Ors.**

Mr. Anirban Pramanick
Ms. Subhasree Dey
Mr. P. Nath ...for the Petitioner

Ms. Aniruddha Chatterjee
Mr. Subrata Banerjee ...for the O.P. nos. 1 & 2

Mr. Arnab Chakraborty
Ms. Pragga Bhowmick ...for the O.P no. 3

This is an application under Article 227 of the Constitution of India with a prayer for expeditious disposal of the pending applications under Order VII rule 11 and Order XXXIX rule 4 of the Code of Civil Procedure filed by the petitioner herein within a time frame.

Learned counsel for the opposite parties submits that the original defendant no. 1 of present Title suit No. 96 of 2022 filed a suit being Title Suit no. 1138 of 2022 wherein an application for analogous hearing of present Title Suit no. 96 of 2022 along with defendant's aforesaid Title Suit no. 1138 of 2022 was sought for and learned court below has allowed the prayer for analogous trial of both the suits.

Being aggrieved by that order of analogous hearing dated 22.8.2022 passed in Title Suit no. 1138 of 2022, the present opposite parties preferred a civil revisional

application being C.O. 3734 of 2022 which is pending before another Bench of this court. Accordingly, the petitioner submits that if the analogous trial is allowed to go on, then said revisional application being C.O. 3734 of 2022 might have become infructuous. Accordingly, he has prayed for necessary consideration.

I have heard both the parties and considered submissions made by them. It is submitted that the said two applications under Order VII rule 11 and Order XXXIX rule 4 of the Code of Civil Procedure is pending for hearing since 31.1.2017. It is no ground to keep the hearing of said two applications stalled which were filed on 31.01.2017 merely because opposite parties at their sweet will have preferred Revisional Application being aggrieved by the order of analogous hearing.

Considering the facts and circumstances of the case, it appears that the prayer made by the petitioner is innocuous and justified considering long pendency of the applications.

In such view of the matter, C.O. 2280 of 2023 is disposed of with a direction upon the learned court below to make every endeavour to dispose of the petitioner's application under Order VII rule 11 and Order XXXIX rule 4 of the Code of Civil Procedure preferably within a period of twelve weeks from the date of communication of the order.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Ajoy Kumar Mukherjee, J.)