

Item No.758
19.12.2023
Court. No. 19
GB

C.O.2492 of 2023

Rajesh Kumar Agarwal
VS
Sri Swami Prasad Dutta

Mr. Amitabha Ghosh

...for the Petitioner.

*Mr. Koushik Chatterjee,
Mr. Nilanjan Adhikari*

...for the Opposite party.

The revisional application is not entertained. The petitioner has challenged an order dated July 15, 2023 passed by the learned Civil Judge (Senior Division), 2nd Court at Barasat in Misc. Case No.48 of 2022, arising out of Title Execution Case No.12 of 2018.

The petitioner filed an application under Section 10 of the Code of Civil Procedure praying for a stay of the execution case. The learned court rejected the said application on the ground that the contentions of the petitioner will be heard in the application under Section 47 of the Code of Civil Procedure.

This Court directs that the learned court below shall dispose of the application under Section 47 of the Code as has already been directed in another revisional application, independently, and the finding on facts and the opinion expressed by the learned court in the order impugned, shall not prevail upon the learned court below, while deciding the application under Section 47 of the Code. The maintainability of the said application and all the points

raised in the said application shall be heard and disposed of on its own merits.

The time period mentioned is mandatory. No unnecessary adjournment shall be given to either of the parties.

Accordingly, the revisional application is disposed of.

However, there shall be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)