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C.O. 2463 of 2022

AGM
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**Pradip Manna
Vs
Smt. Sarikha Jha**

Mr. Pijush Kanti Khanra,
Mr. Uttam Banerjee,
Mr. Somnath Khanra,
Mr. Mrinal Kanti Biswas,

... For the petitioner.

While assailing the impugned orders dated 11th April, 2022 and 15th June, 2022 passed by learned Civil Judge (Junior Division), 1st Court, Howrah in Title Execution Case 143 of 2019, Mr. Pijush Kanti Khanra, learned advocate appearing for the petitioner submits that making suppression of the facts regarding the pendency of the appeal, the opposite party got the decree executed in the referred execution case.

It is also disclosed by the learned advocate for the petitioner that the appeal is still pending before the learned Additional District Judge, 5th Court, Howrah, wherein there is no Presiding Officer posted at the moment.

It is fairly disclosed by the learned advocate for the petitioner that upon executing the decree, the possession of the petitioner has been recovered by the other side forcibly.

When appeal is pending before the First Lower Appellate Court. as mentioned hereinabove, this

Court should not interfere with the impugned order.

The revisional application stands disposed of, giving liberty to the petitioner to take appropriate application in redressal of his grievance before the First Lower Appellate Court, before whom the appeal is pending.

This would not, however, prevent the learned Judge remaining-in-charge of the learned Judge, Additional District Judge, 5th Court, Howrah to take up any application, if any, filed by the petitioner within three weeks from the date of communication of the order to the Court below.

The applications, if filed, may be decided in accordance with law giving hearing for the purpose to both the parties.

Petitioner is directed to make communication of this order to the learned court below as well as to the learned advocate appearing in the court below for the opposite party and the opposite party.

With this observation and direction, the revisional application stands disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Subhasis Dasgupta, J)

