

23.03.2023
SL No.77
Court No. 654
Ali

**IN THE HIGH COURT AT CALUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

C.O. 2525 of 2022

Smt. Rumela Majhi & Ors.

versus

Sme. Arati Karati & Ors.

Mr. Souvick Mitra
Ms. Subhasri Chatterjee
.....for the plaintiff-petitioners.

This is an application under Article 227 of the Constitution of India filed by plaintiff-petitioners for a direction for expeditious hearing and disposal being Title Suit No. 1243 of 1999 pending before learned Judge, XIIIth Bench, City Civil Court at Calcutta.

The brief fact of the case is that the plaintiff-petitioners filed a suit with a prayer for Declaration, Partition, Injunctions and accounts before learned XIIIth Bench, City Civil Court at Calcutta being Title Suit No. 1243 of 1999. On 22nd December, 2011 preliminary decree was passed in the suit. On the application of the plaintiff-petitioners dated 20th April, 2012, Partition Commissioner was appointed on 24th July, 2012. The plaintiff-petitioners on October 7, 2021 filed application for appointment of fresh Partition Commissioner since the previous Commissioner failed to submit report in spite of lapse of more than 8 years. Such application for

appointment of fresh Partition Commissioner is still pending for disposal. The plaintiff-petitioners by filing the revisional application has sought for appropriate order for expeditious disposal of the suit.

Mr. Souvick Mitra, learned advocate for the plaintiffs-petitioners submits that the suit has been instituted in the year 1999 and even after passage of so many years the suit has not been disposed of. He prays for appropriate order for expeditious disposal of the suit.

From the materials placed it is found that after passing the preliminary decree one advocate Commissioner was appointed for holding commission however the said Commissioner did not submit its report before the trial court after long lapse of period. The plaintiff thereafter was constrained to take out of an application under Order XXVI Rule 13 for appointment of a fresh Partition Commission. The application for appointment of fresh Partition Commissioner is pending.

In view of such position, the learned trial court is directed to issue necessary direction upon the erstwhile Commissioner to submit report within a period of six months from the date of communication of this order. Failure to submit such report within the stipulated period as above by the

commissioner, the learned trial court shall dispose of the application for appointment of fresh Partition Commissioner filed by plaintiff-petitioners preferably within a period of two months thereof and proceed in accordance with law thereafter.

With the aforesaid observations, the revisional application being **C.O 2525 of 2022** stands disposed of.

All connected applications, if any, stand disposed of.

Interim order, if any, stand disposed of.

Urgent photostat copy of the order, if applied for, be given to the parties upon compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)