

04.09.2023
Court No. 19
Item No.34
CP

C.O. 2765 of 2023

Biswajit Sahoo & ors.

Vs.

Chandi Charan Patra & anr.

Mr. Basudeb Gayen

Ms. Pallabi Chatterjee

...for the petitioners.

The revisional application is not maintainable.

The order impugned although, on the face of it appears to be an order passed under the provisions of Order 21 Rule 97 of the Code of Civil Procedure, but the said order dated July 20, 2023 passed in J. Misc. Case No. 13 of 2016 deals with the adjudication of the interest of the third parties in respect of the decretal property. The objection of the opposite parties and their right and possession was considered. The deed of sale from Panchurani dated May 24, 2010 was looked into. Evidence of the parties was recorded. The court found that the sale was effected on May 24, 2010 and the suit was decreed on March 22, 2011. Hence, according to the court, the suit was hit by the principle of lis pendens.

The learned court below adjudicated the right, title and interest of the petitioners/third parties who resisted the bailiff and filed an objection with regard to the execution. The court held that the sale to the third parties was barred by the provisions of Section

52 of the Transfer of Property Act. Hence, the decree was directed to be executed with the help of police.

This order impugned, is an appealable order in terms of Order 21 Rule 103 of the Code of Civil Procedure.

This court has not decided the matter on merits. The petitioners are at liberty to proceed in accordance with law, upon taking back the certified copy of the order impugned, by furnishing a photocopy thereof.

The revisional application is accordingly dismissed.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)