

Item No. 24
17.10.2023
Court. No. 19
GB

C.O. 2767 of 2023

Basant Kumar Khemka & Anr.
Vs.
City Shoppe Estates Limited

Mr. Pranit Bag,
Ms. Pooja Jewrajka,
Mr. Rahul Poddar,
Mr. Debdutta Saha

...for the Petitioners.

Mr. Sumanta Biswas,
Mr. Supratim Laha,
Mr. Abhishek Dutta,
Mr. Bikash Shaw

...for the Opposite Party.

The revisional application has been filed challenging an order dated August 8, 2023 passed by the learned District Judge at Alipore in Misc. Case (Arb) No.47 of 2023. The learned court fixed the application filed under Section 151 of the Code of Civil Procedure for hearing on September 22, 2023, upon service of the same to the opposite party.

It is submitted by the learned advocate for the petitioners that the said application could not be decided on the returnable date as there was a resolution of the bar. The next date has been fixed on January 9, 2024. The petitioners submit that when there was an order upon the opposite party to restore the electricity connection, the same should have been complied with by the opposite party.

It is further submitted that if the opposite party fails to comply with the order, the court can direct implementation of the same with the help of the police. It is further submitted that an application under Order 39 Rule 7

of the Code of Civil Procedure alleging violation of the order has also been filed.

The learned advocate for the opposite party submits that as the maintainability of the Section 9 application has been challenged, the electricity line has not been restored.

However, it is submitted that there are no orders from any superior court, staying the ad interim order already passed by the learned trial court, directing the opposite party to restore connection.

This Court is of the view that the application under Section 151 of the Code of Civil Procedure and the prayers therein could not be allowed without hearing the opposite party. The learned court rightly fixed a date for hearing of the said application upon service of the application upon the opposite party.

The opposite party is already before this Court. The written objection to the said application be filed within a period of two weeks after reopening the court after the ensuing puja vacation, if not already filed.

The petitioners are at liberty to pray for preponement of the next date of hearing before the learned trial court, so that the application can be disposed of in accordance with law upon allowing all parties to contest the same.

This Court has not made any observations on the merits of the application under Section 9 of the Arbitration and Conciliation Act, 1996. The application filed by the opposite party will be decided in accordance with law.

Accordingly, the revisional application is disposed of.

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

(Shampa Sarkar, J.)