

S/L 35
02.02.2023
Court No.652
SD

CO 2270 of 2021

Sri Rampada Pandit
Vs.
Sri Ananda Pandit & Ors.

Mr. Kalyan Kumar Bhattacharjee
Ms. Reshmi Khatun

...for the Petitioner.

Affidavit of service filed by the petitioner in court today be kept with the record.

In spite of service, opposite parties are not represented.

This is an application under Article 227 of the Constitution of India seeking direction upon the court below for expeditious disposal of the Misc. Case No.5 of 2020 arising out of Civil Suit No.99 of 2018 presently pending before the Court of learned Civil Judge (Senior Division), Diamond Harbour.

The petitioner contended that in the abovementioned suit, the petitioner has filed an application Order 39 Rule 2A read with Section 151 of the Code of Civil Procedure which was registered as Misc. Case No.5 of 2020 and the said misc. case was filed for violation of the order of injunction granted on 19.3.2018. In the said misc. case, the petitioner has alleged that in spite of order of injunction, the opposite parties violating the same are raising construction over the said land and on the basis of the prayer of the petitioner a

local inspection commissioner was also appointed who subsequently filed a report. In spite of that the said proceeding is pending before the court below for more than two years without any significant development and such delay has been caused for no fault on the part of the petitioner.

The petitioner further contended that the aforesaid inordinate delay in disposing of the said proceeding tantamount to gross violation of the rights of the petitioner guaranteed under Article 21 of the Constitution of India. Accordingly, petitioner has made the aforesaid prayer.

Having considered the facts and circumstances of the case and that the prayer made by the petitioner is very innocuous and also considering the reasonableness and justification of the prayer, CO 2270 of 2021 is hereby disposed of with a direction upon the learned Civil Judge (Senior Division), Diamond Harbour to make every endeavour for expeditious hearing of the aforesaid proceeding and to conclude the entire proceeding of the said Misc. Case No.5 of 2020, preferably within a period of three months from the date of communication of the order.

There will be no order as to costs.

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

(Ajoy Kumar Mukherjee, J.)