

01.08.2023
Court No. 19
Item No.55
CP

C.O. 2911 of 2022

Gita Das

Vs.

Bikash Das

Mr. Malay Bhattacharya

Mr. S. Ghosh

...for the petitioner.

This is a shocking case where the lower court records were not received by the learned Additional District Judge, Fast Track, 2nd Court at Sealdah in connection with Ejectment Suit No. 377 of 2004. The Ejectment Suit was decreed on January 30, 2013. The defendant/tenant preferred an appeal being Ejectment Appeal No. 7 of 2013.

It appears that at least 20 dates have been fixed by the learned lower appellate court calling for the lower court records, but the said records were not received.

The court is surprised as to how the superior court could not take the leaned trial court to task for such negligence.

The appellant prays for expeditious disposal of the appeal and has brought the hapless situation on record by this revisional application. The suffering caused to the decree holder is immense.

The prayer for expeditious disposal is reasonable. Neither party stands to lose if a proceeding is disposed of expeditiously. In fact, such expeditious disposal shall enure to the benefit of the parties. Hence, there is no requirement for service of prior notice upon the opposite party.

The revisional application is disposed of with a direction upon learned lower appellate court to ensure that the lower court records are received from the trial court within two weeks from the date of communication of this order. A server copy of this order shall be filed by the petitioner by a put up petition in the appellate court. Upon receipt of the lower court records, the appeal shall be disposed of within the next four months, upon granting adequate opportunity to the parties to contest the same.

This court has not expressed any opinion on the merits of the appeal. The learned lower appellate court shall proceed independently and in accordance with law.

A copy of the revisional application along with a server copy of this order be served upon the opposite party and/or the learned advocate contesting the matter on behalf of the opposite party in the learned court below, within a week.

The learned lower appellate court is directed to send a report of compliance of this order which shall

be filed before the learned Registrar General, High Court, Calcutta.

The revisional application is accordingly disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)