

24.08.2023
Court No. 19
Item No.22
CP

C.O. 2987 of 2022

Abdul Hamid

Vs.

Shabhadipati, Panchayat Samiti
Sandeshkhali – I & ors.

Mr. Souri Ghosal
Mr. Prabhat Kr. Singh

.....for the petitioner.

The petitioner is the decree holder who prays for early disposal of the Money Execution Case No. 4 of 2020, which is pending before the learned Civil Judge (Senior Division), Basirhat.

It is submitted by the petitioner that by filing an appeal before a court which lacked pecuniary jurisdiction, the execution proceeding is being delayed by showing pendency of the appeal. It is submitted that an application for stay of the execution case is pending since long. Petitioner seeks expeditious disposal of the application for stay.

The prayer of the petitioner is innocuous. 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 parties.

At this juncture, this revisional court is not in a position to decide the maintainability of the appeal. Such issue can be raised by the petitioner in the appeal itself. The appellate court will decide the matter upon giving adequate opportunity to all the parties to contest such question.

However, as there is an application for stay filed by the judgment debtor in the execution case, this court is of the view that justice would be subserved if such application is disposed of by the learned executing court in accordance with law, upon giving all the parties enough opportunity to contest the same. The said application shall be disposed of within two months from date.

This court has not expressed any opinion on the merits of the stay application. The learned 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 parties and/or the learned advocate contesting the matter on behalf of the opposite parties in the learned court below, within a week.

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.)