

16.10.2023
Item No.03
RP
Ct. No.7

CO 3156 of 2023
Sri Sadananda Mahato
Vs.
State of West Bengal & Ors.

Mr. Chittapriya Ghosh
Ms. Priyanka Saha

... For Petitioner

Mr. Tanoy Chakraborty
Ms. Ashmita Chakraborty

... For State

Mr. A. Bhattacharya
Mrs. S. Ghosal

... For Proforma Respondent Nos.7 to 10

The order No.35 dated June 28, 2023 passed by the learned Civil Judge, Junior Division, 2nd Court, Purulia in Misc. Case No.13 of 2022 is under challenge in this civil revisional application. By the impugned order, the miscellaneous case under Order 9 Rule 13 of the Civil Procedure Code, 1908 was allowed subject to payment of costs of Rs.1000/-.

Mr. Ghosh, learned advocate for the petitioner submits that the learned Judge of the Court below allowed the miscellaneous case without assigning any reasons. He submits that the opposite party herein did not satisfactorily explain the reasons for not appearing when the suit was called on for hearing.

Learned advocate appearing for the State submits that the opposite parties have stated in details the reasons which prevented the defendants from appearing when the suit was called on for hearing. He submits that the learned Judge of the Court below upon being satisfied with the explanation given by the opposite party in the application under Order 9 Rule 13 of the Code allowed such application.

Heard the learned advocates for the parties and perused the materials on record.

Upon going through the application under Order 9 Rule 13 of the Code, this Court finds that it has been specifically stated that possession of the suit plot, which was acquired under the provisions of the National Highways Act was handed over to the National Highways Authority of India as on July 24, 2019. It has been further stated in the said application the learned government advocate was entrusted to contest the said suit but for reasons beyond control of the State the ex parte decree was passed due to non-appearance of the said government advocate. It is well settled that a litigant should not be made to suffer for the lapses on the part of its counsel, if any, and, therefore, this Court is of the considered view that the learned Judge of the Court below was right in allowing the said miscellaneous case.

CO 3156 of 2023 is disposed of accordingly. Mr. Ghosh, learned advocate for the petitioner submits that a direction may be passed upon the learned Court below to dispose of the title suit expeditiously.

In view thereof, the opposite party is directed to file the written statement on or before November 30, 2023. Learned Civil Judge, Junior Division, 2nd Court, Purulia is requested to make an endeavour to dispose of the Title Suit No.381 of 2018 as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

(HIRANMAY BHATTACHARYYA, J.)