

DL-4

18.10.2023
Court No.7
(AD)

CO 3230 of 2023

Sri Sidhartha Das
Vs.
Smt. Sipra Chowdhury & Ors.

Ms. Sucharita Biswas
Mr. Umesh Kumar Saw
Mr. Bhaskar Dutta
... for the petitioner

The Order No.14 dated 13th of July, 2023 passed by the learned Additional District Judge, 1st Court, Serampore in Title Appeal No.07 of 2022 is under challenge in this application under Article 227 of the Constitution of India.

By the order impugned, the learned First Appellate Court passed an order of stay of all further proceedings of the Title Execution Case till the disposal of the appeal.

The learned Advocate for the petitioner submits that the order of stay was passed without giving any opportunity of hearing to the respondent.

After going through the order impugned, this Court finds that pursuant to a caveat lodged in connection with the title appeal, notice was sought to be served upon the caveator but the respondent avoided the service of notice. Thereafter, in terms of an order passed by the Court, a notice was published in a daily newspaper, namely, 'Sambad Pratidin' of its edition dated 21st of May, 2023 and even, thereafter the respondent failed and neglected to enter appearance in

the appeal. In view thereof, this Court is of the considered view that the learned Judge of the Court of Appeal below was perfectly justified in proceeding to hear the application for stay in the absence of the respondent.

Accordingly, there is no infirmity in the order passed by the learned Court of Appeal below.

The learned Advocate appearing for the petitioner submits that an application for vacating the order dated 13th of July, 2023 has already been filed before the learned Court below. The learned Court of Appeal below is requested to take up the hearing of the said application on the next date fixed and to dispose of the same as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

With the above observations and directions, **CO 3230 of 2023** stands disposed of.

There shall be, however, no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on usual formalities.

(Hiranmay Bhattacharyya, J.)

