

Item No.24
19.12.2023
Court. No. 19
GB

C.O.3511 of 2023

Sri Swami Prasad Dutta
VS
Rajesh Kumar Agarwal

*Mr. Koushik Chatterjee,
Mr. Nilanjan Adhikari*

...for the Petitioner.

Mr. Amitabha Ghosh

...for the Opposite party.

The petitioner prays for expeditious disposal of Title Execution Case No.12 of 2018 along with all interlocutory applications, pending before the learned Civil Judge (Senior Division), 2nd Court at Barasat.

It is submitted that an application under Order 21 Rule 97 of the Code of Civil Procedure was directed to be disposed of by this Court within a period of two months from the date of the said order. Such order was passed on July 4, 2023.

Mr. Ghosh, learned advocate appearing on behalf of the opposite party submits that an application under Section 47 of the Code of Civil Procedure is pending disposal. Until the said application is disposed of, the order granting execution through police help, could not be passed.

Thus, this Court is of the view that when an application challenging the execution, discharge and satisfaction of a decree is pending before the learned executing court, the said application should be disposed of first.

Under such circumstances, the revisional application is disposed of with a direction upon the learned court below to mandatorily dispose of the application under Section 47 of the Code of Civil Procedure within a period of two months from the next date fixed. Upon disposal of the said application and on the outcome of the said application, execution case shall be proceeded with and be disposed of within a month thereafter. No unnecessary adjournment shall be given to either of the parties. All points, including the maintainability of the said application will be decided by the learned court.

Accordingly, the revisional application is disposed of.

All parties are directed to file their respective objections to the pending applications in the meantime, if not already done.

However, there shall be no order as to costs.

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

(Shampa Sarkar, J.)