

June 14, 2023
Sl. No.04
Court No.19
s.biswas

CO 3319 of 2022

Shibu Pal @ MonilalPal and another
vs.
The Burdwan Municipality and others

Mr. Sounak Bhattacharya
Mr. Sounak Mondal

... for the petitioners

Mr. Nilanjan Adhikari

... for the Burdwan Municipality

The purpose of the revisionist will be served if the learned court below is directed to hear out the application for stay at least on the point of interim order along with the application filed under Order 1 Rule 10 of the Code of Civil Procedure on the next date fixed.

The petitioners being aggrieved by an order of demolition, preferred a statutory appeal being Misc. Case No.76 of 2022. The petitioners also prayed for stay of the operation of the order of demolition till the disposal of the appeal. The petitioners submit that unless minimum protection is given by the learned court below in the application for stay of the operation of the order of demolition, the appeal will become infructuous.

The order-sheet which has been annexed in the revisional application, indicates that one Kartick Chandra Pal filed an application for addition of party in the proceeding and the said application has been kept pending for hearing. The order-sheet does not

indicate whether the stay application filed by the petitioners was at all taken up or considered at least on the point of interim order.

Hence, the revisional application is disposed of with direction upon the learned Civil Judge (Junior Division), 2nd Court, Burdwan to hear out the application for stay at least on the point of interim order on the same day when the application under Order 1 Rule 10 of the Code of Civil Procedure is fixed for hearing, on its own merits and on the basis of the records. The municipality shall be restrained from taking any coercive steps in respect of the construction which is the subject matter of the appeal till the application for stay is decided by the learned court below or until further orders in respect of the stay application, whichever is earlier. The objection, if any, to the application for stay, shall be filed within the next date fixed.

(Shampa Sarkar, J.)