

04.12.2023
Sl. No.26(ML)
srm

C.O. No. 3656 of 2023
Sri Mukesh Patwari & Anr.
Versus
Sri Subhadra Dhar & Ors.

Mr. Kumar Jyoti Tewari,
Mr. Md. Adnan Ahmed,
Mr. Amit Sinha,
Mr. Aniruddha Tewari

...for the Petitioners.

The petitioners have alleged that by an order dated September 15, 2023, passed in Title Appeal No.04 of 2023 the learned Judge, VIth Bench, City Civil Court at Calcutta, had erroneously recorded that the appellants/petitioners had filed an application for adjournment, whereas the appellants/petitioners had actually filed an application for urgent interim orders, on the ground that an application under Order XXI Rule 97 of the Code of Civil Procedure for police help has been fixed for hearing in the execution proceeding. The petitioner prays for stay of the execution proceeding.

This Court finds that the date for hearing of the said application in the execution case has been fixed on January 11, 2024, whereas the learned lower appellate court has fixed the hearing of the application for stay on February 22, 2024. This

Court is of the view that if the contention of Mr. Tewari is correct, that the learned court had wrongly recorded the nature of the application filed and not pass any order of stay of the execution proceeding, the petitioner was at liberty to approach the learned court below for rectification of the observation and for necessary orders.

Under such circumstances, this Court is not inclined to interfere with the order impugned. The petitioners are granted liberty to approach the learned court below for rectification of the order which, according to the petitioners, had wrongly recorded the nature of the application. The petitioner can file a put up petition upon service upon the opposite parties praying for fixing an early date preferably within ten days from date of communication of this order for hearing of the stay application.

It is expected that the stay application should be heard within January 5, 2023, at least, on the point of ad interim order of the stay of the execution case.

The revisional application is, thus, disposed of.

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

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

(Shampa Sarkar, J.)