

S/L 39
19.01.2023
Court No.652
SD

CO 3620 of 2022

Messers Saltee Infrastructure Ltd.
Vs.
Sunil Kakrania & Ors.

Mr. Rahul Karmakar
Mr. Sounak Mukherjee
Mr. Sourav Guchhait

...for the Petitioner.

This is an application under Article 227 of the Constitution of India challenging the order dated July 25, 2022 passed by the learned Civil Judge (Senior Division), 2nd Court at Barasat in Execution Case No.5 of 2019 arising out of Money Suit No.122 of 2008.

The petitioner has contended that the plaintiff company filed the suit for recovery of money against the opposite party nos.1 to 3 before the learned Civil Judge (Senior Division), 2nd Court at Barasat. The opposite party had duly contested the suit by filing their written statement, denying and disputing allegations contained in the plaint.

The petitioner alleged that after a protracted trial, the suit was decreed on October 12, 2018. It is further stated that the opposite parties have accepted the said decree and have not assailed the said decree.

The petitioner herein subsequently put the decree into execution which was registered as Execution Case No.5 of 2019. The said execution case is pending for a long time and the trial court had failed to appreciate that no fault of the

petitioner, the petitioner is devoid of enjoying the usufructs of the decree. Accordingly, petitioner has prayed for a direction upon the executing court for expeditious disposal of the aforesaid Execution Case No.5 of 2019.

Since the prayer made is very innocuous and that if it is heard and disposed of in terms of aforesaid prayer in the absence of the opposite party, neither party will have cause prejudice, the process of serving copy of the revisional application and notice upon the opposite parties are dispensed with.

In view of the facts and circumstances of the case, CO 3620 of 2022 is hereby disposed of with a direction upon the learned Civil Judge (Senior Division), 2nd Court at Barasat to make expeditious hearing of the Execution Case No.5 of 2019 arising out of Money Suit No.122 of 2008 and to make every endeavour to conclude the entire proceeding of the said execution case preferably within a period of six months from the date of communication of the order in terms of the order of the Hon'ble Apex Court passed in paragraph 42 of ***Rahul S.Shah Vs. Jitendra Kumar Gandhi and others***, reported in **(2021) 6 SCC 418**.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Ajoy Kumar Mukherjee, J.)