

OD-10

IN THE HIGH COURT AT CALCUTTA
Extra Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

ALP/1/2022

SOUMENDRA KRISTO DUTT AND ORS.
VS
ASHIM KUMAR RAKSHIT

BEFORE:

The Hon'ble JUSTICE AJOY KUMAR MUKHERJEE

Date : 6th January, 2023.

Appearance :
Mr. Abhrajit Mitra, Sr. Adv.
Mr. Dipendra Nath Chunder, Adv.
...for the petitioner

Mr. S. Gupta, Adv.
Mr. T. K. Dey, Adv.
...for the respondent

The Court:- Leave is granted to correct the name of the Bench in the cause title and the prayer.

This is an application under Clause 13 of the Letters Patent read with Section 24 of the Code of Civil Procedure seeking transfer of Title Suit No. 35 of 2015 presently pending before the learned 11th Bench at City Civil Court, Calcutta to this Hon'ble Court. It is submitted on behalf of the petitioners herein that on or about 9th January, 2015, the petitioners instituted aforesaid suit against the defendant, inter alia, for declaration, recovery of khas possession, injunction. Respondent herein is contesting the suit by filing written statement on March 17, 2016. The learned Judge, 10th Bench, City Civil Court (wherein the

case was pending at that point of time) framed issues on December 3, 2018 in presence of the parties but since then several dates were given but there is no further progress of the pending suit. A detailed list of dates showing adjournments of the said case has been given in paragraphs 7 and 8 of the application.

It is further alleged by the petitioner that the respondent has been intentionally delaying the proceeding of the suit. The said suit was filed in 2015 and it took almost three years for the learned Judge to hear the injunction application and that too upon direction passed by this Court in July, 2018. Further contention of the petitioner is that from July, 2018 to 2022, the case could not be taken up due to the absence of Presiding Officer. The examination of the witnesses could not be started due to the absence of regular Presiding Officer. In fact, there has been no material progress in the suit and for which the petitioners herein is in no way responsible. Accordingly, petitioners state that a trial before the City Civil Court, Calcutta with the consequential series of adjournments would take much time, that justice will not be done to the petitioners and that the petitioners would be deprived to get the fruits of litigation and as such petitioners sought for aforesaid transfer.

Learned counsel appearing on behalf of both the parties at the time of hearing fairly submits that learned 11th Bench, City Civil Court at Calcutta where the sit is presently pending has joined recently and it is functioning.

In view of the above, ALP/1/2022 is hereby disposed of with a direction upon the learned Judge, 11th Bench, City Civil Court, Calcutta to make every

endeavour for expeditious disposal of the aforesaid title suit pending before the said Court preferably within a period of eight months from the date of communication of this order. The concerned Judge shall take recourse to order XVII, Rules 1, 2 and 3 of the Code of Civil Procedure and will conduct day to day trial as far as possible and will not grant any unnecessary adjournments to either of the parties.

(AJAY KUMAR MUKHERJEE, J.)

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