

April 19, 2024
Sl. No.10
Court No.19
s.biswas

CO 625 of 2024

Sri Pravin Pandey @ Pravin Kumar Pandey
vs.
Smt. Chhya Karmakar

Mr. Debashish Roy
Mr. Ashish Santra

... for the petitioner

Mr. Arnab Roy
Ms. Mou Halder
Mr. Satyam Mukherjee
Mr. Purnendu Shekhar Ghosh
Ms. Kuheli Gayen

... for the opposite party

1. By the order impugned, the learned Judge 11th Bench, City Civil Court at Calcutta dismissed Misc. Case No. 8156 of 2008 arising out of Title Execution Case No. 9 of 2006. Misc. Case No. 8156 of 2008 was an application under Section 47 of the Code of Civil Procedure. The petitioner/judgment debtor challenged the executibility of the decree on the ground that the decree of eviction was obtained by fraud, collusion and suppression of material facts. The learned court was of the opinion that the defendant/judgment debtor was trying to buy time by filing frivolous applications. Decree was affirmed up to the Hon'ble Supreme Court and the executing court could not go beyond the decree only on the ground that a feeble attempt was made by alleging that the decree was fraudulent.

2. On the last occasion when the revisional application was entertained, this Court had expressed a view that the order impugned did not, prima facie, appear to be perverse. Service was directed to be completed and the matter was made returnable in order to pass direction so that the decree can be executed effectively. The landlord is an 87 years old lady. She is present in Court. She has been fighting the suit since 1983 and deserves justice.
3. Mr. Debasish Roy, learned advocate for the judgment debtor submits a supplementary affidavit prepared by the judgment debtor affirmed before the Oath Commissioner of the High Court praying for a year's time to vacate the premises.
4. The decree-holder (87 years) is being deprived of the fruits of the decree since 2006, due to the actions of a recalcitrant judgment debtor. Even after being unsuccessful upto the Hon'ble Supreme Court, once again the judgment debtor has tried to reopen the issue on frivolous pleas of fraud, etc., by filing an application under Section 47 of the Code of Civil Procedure, deserves immediate justice.

5. Under such circumstances, the concerned affidavit of the judgment debtor is accepted but the prayer for grant of one year is not allowed. The premises shall be vacated by the judgment debtor and his family members, positively within September 30, 2024. The supplementary affidavit is treated as an undertaking of the judgment debtor before the Court. The same is taken on record. The decree-holder shall accept the possession and the parties will file their papers before the learned executing court for disposal of the execution case, on the basis of the undertaking given before this Court.
6. Although, the revisional application is disposed of, the judgment debtor will file an affidavit before the learned Registrar General, High Court at Calcutta on October 1, 2024 indicating compliance of this order. Failure to comply will enable the learned executing court to execute delivery of possession with the help of the police without insisting on any separate application by the decree-holder.
7. Accordingly, the revisional application is disposed of.
8. However, there will be no order as to costs.

9. All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)