

02.12.2024
Ct. No. 22
Sl. No.11
KB

**In The High Court at Calcutta
Civil Revisional Jurisdiction
Appellate Side**

CO 1730 of 2023

**Sri Arup Chatterjee & Another
-versus-
Pradip Kumar Ghosh**

**Mr. M. P. Gupta
Mr. Ayan Mitra
Mr. Aditya Sinha
Mr. S. Singh**

... For the petitioners.

**Mr. Haradhan Banerjee
Mr. Amitava Pain
Mr. P. P. Mukhopadhyay**

... For the opposite party.

1. This revisional application has assailed the order dated 26th April, 2023 passed in Title Execution No.23 of 2020 wherein Learned Civil Judge (Junior Division), 7th Court, Howrah allowed one application under Rule 208 of Civil rules and order i.e. assistance of police in execution of decree after considering the report of the Bailiff who was obstructed to do so.

2. Learned Judge disposed of Title Suit No. 91 of 2013 along with counterclaim and passed order directing the plaintiff/opposite party herein being owner of the septic chamber ('C' Schedule property) to clean the same on condition not to cause any hindrance and/or disturbance in the usage of the said common

passage by the defendants as mentioned in 'B' schedule of the plaint. It is also found from the order that both the parties to the suit admitted the existence of the septic chamber.

3. On careful perusal of the entire documents on record, it appears that the decree was put into execution and one Bailiff was entrusted to visit the subject premises and to execute the decree.

4. From the Bailiff's report, it appears that he could not complete his work due to some obstruction.

5. Accordingly, report was submitted and Learned Judge allowed the application for police help under Rule 208 of Civil rules and Order.

6. Both the learned counsel appearing on behalf of the parties to this revisional application have submitted that order for cleaning septic tank shall have to be executed in presence of police personnel who will only see that there is no breach of peace at the time of execution of decree i.e. cleaning of septic chamber ('C' schedule property) as per decree.

7. Learned Judge is to ensure the execution of decree to be executed by allowing police help as Bailiff was obstructed by some unknown persons beforehand.

8. From that point of view, I do not find any infirmity in the order impugned in this revisional application.

9. Learned Judge is requested to ensure that the execution of decree by the Bailiff in presence of police force will who only supervise to see that there is no breach of peace in execution of decree without disturbing the possession of the defendants.

10. With the above observations, the revisional application stands disposed of.

11. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

12. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Bibhas Ranjan De, J.)