

M/L 60
16.7.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 1901 of 2024

Sri Swapan Kumar Basak
Vs.
Smt. Manju Bhattacharjee

Mr. Pinaki Ranjan Mitra
Ms. Gargi Acharyya

...for the Petitioner.

Mr. Suman Kumar Dutt
Mr. Saumendra Mohan Rakshit
Mr. Ratul Das

...for the Opposite Party.

The instant application under Article 227 of the Constitution of India is directed against Order No.11 dated April 03, 2024 passed by the learned Judge, 3rd Bench, Presidency Small Causes Court at Calcutta in *Ejectment Suit No.120 of 2023*.

The petitioner is the defendant in the connected Ejectment Suit.

The petitioner has filed a Suit for specific performance of an alleged agreement for sale of the Suit property being *Title Suit No.1640 of 2013* which is pending before the learned Judge, Bench – II, City Civil Court at Calcutta; pending disposal of the said Suit, the petitioner had prayed for stay of all further proceeding(s) of the said Ejectment Suit.

The learned Trial Judge by the order impugned has refused the said prayer of the petitioner holding *inter alia* that the cause of action and the issues involved in the two Suits are completely different.

The further proceeding(s) of the Suit for eviction of a tenant cannot be stayed for the pendency of a Suit for specific performance of an agreement for sale by the tenant, inasmuch as, in the event the Ejectment Suit is decreed, and in execution of it, the tenant is evicted from the Suit property, he would be entitled to get it back on being successful in the Suit for specific performance of the agreement for sale. Multiplicity of the proceeding alone cannot outweigh the requirements of Section 10 of the Code of Civil Procedure since the issues in both the Suits are completely different.

However, the disposal of the Suit for specific performance be expedited.

CO 1901 of 2024 is disposed of with the above observations with no order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)