

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION**

C.O. 2165 of 2023

Kishan Lal Agarwal.

Vs.

HRG Trading Private Limited.

Mr. V.V.V. Sastry

Mr. S. Mukhopadhyay

Mr. V. Acharyya

... For the Petitioner.

Mr. Birendra Kumar Jha

Mr. A. Das

.... For the O.P./Respondent.

Learned Advocate for the petitioner and learned Advocate for the opposite party are present.

This application is directed against the order dated 28.3.2023 passed by the learned Civil Judge, Sr. Division, 2nd Court Barasat, North 24 Parganas in Misc. Case 35 of 2021 arising out of Title Ex. No. 2 of 2019

The learned court by an order dated 28.3.2023 was pleased to dismiss the application filed by the petitioner under Section 151 C.P.C on the ground defendant was not served.

Learned Advocate for the petitioner submits that he is only making prayer for expeditious disposal of Title Execution Case No. 2 of 2019 upon hearing both the parties.

S.D.

Learned Advocate for the opposite party judgement debtor is also present and submits that his application under Order 9, Rule 13 CPC is also required

to be heard.

Upon perusal of the order passed by this Court in C.O. 2165 of 2023, it appears that this court had passed an order of stay of execution proceedings upon payment of Rs.17,000/- per month and the said amount was enhanced to Rs. 50,000/- per month. As contended by the petitioner that due to non-payment of occupational charge execution proceeding was resumed. Hence this ground is for the petitioner to establish before the learned Executing Court and for the opposite party to justify the stay of execution proceedings, upon proof of payment.

Thus this application stands disposed of by granting liberty to the Learned Trial court to dispose of the Title Execution 2 of 2019 as well as Misc. Case No. 35 of 21 analogously and expeditiously within a period of two months from the next date fixed.

It is made clear that the opposite party will be at liberty to place report before the court as to the amount occupation charge paid in terms of the order passed by this court. It is hereby clarified in the event the regular court is absent the charge court is to hear out both the cases without granting unnecessary adjournment.

(Biswaroop Chowdhury, J.)

