

23.07.2024
Item No.18,DL
Ct.19
A.J.

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

C.O. 2536 of 2024

**Sri Dilip Kumar Roy
-Vs-
Sri Laxmikanta Sain**

Mr. Rabindra Narayan Dutta,
Mr. Jagabandhu Roy,
Mr. Hare Krishna Halder,
Ms. Manasi Roy Saha.
...for the petitioner.

Mr. Prosenjit Mukherjee.
...for the opposite party.

The petitioner has suffered a decree of eviction in Title Suit No. 43 of 2017 passed by the Court of 2nd Court of learned Civil Judge (Junior Division) at Arambagh, District-Hooghly and aggrieved thereby, has preferred an appeal being Title Appeal No.9 of 2024 which is pending before the learned Civil Judge (Senior Division) at Arambagh District : Hooghly.

The decree under appeal has been put into execution giving rise to the Title Execution case No. 16 of 2024

The lawyers of the sub-Divisional Court at Arambagh have boycotted the said Appeal Court, under such circumstances, the petitioner had approached the Executing Court with an application under Order XXI Rule 26 of the Code of Civil Procedure for stay of further proceedings of the said execution case.

The Executing Court by the order impugned being Order No.07 dated June 03, 2024 has dismissed the said application for the failure of the petitioner to approach the Appeal Court for an appropriate order of stay.

In view of the prevailing situation in the Appeal Court, the Executing Court is required to exercise its power under Order XXI Rule 26 of the Code.

To facilitate the said exercise, the order impugned is set aside.

The Executing Court is requested to reconsider the said application in accordance with law and to pass necessary order of stay of the further proceedings of the said execution case on putting the judgment-debtor under appropriate terms.

C.O. 2536 of 2024 is disposed of with the above terms without any order as to costs.

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

(Biswajit Basu, J.)