

22.03.2024
05
PG
Ct. No.7

C.O. 3106 of 2023
With
I.A. No. CAN 1 of 2023 (Not in File)

Samsur Rahaman Chowdhury & Ors.
Vs.
Anowara Khatun & Ors.

Mr. Gangadhar Das
Mr. Tanmoy Chattopadhyay
Ms. Munmum Das.....for the petitioners

1. This civil order is at the instance of the defendant and is directed against an order no. 12 dated 3rd May, 2023 passed by the learned Additional District Judge, 1st Court, Malda in Title Appeal No. 15 of 2022. By the order impugned, the judgment and decree passed by the learned trial Judge was stayed till the disposal of the appeal.
2. In spite of service, none appears to oppose this application. Affidavit-of-service filed in Court today is taken on record.
3. Learned advocate appearing for the petitioners submits that the judgment and decree passed in Title Suit No. 151 of 2015 dismissing the suit has been challenged in Title Appeal No. 15 of 2022 and the operation of the judgment and decree could not have been stayed by the learned Court of appeal below.

4. The opposite parties herein filed a suit for declaration of title and for permanent injunction against the petitioners. Upon a contested hearing, the said suit was dismissed by a judgment and decree dated 30th March, 2022.
5. Since by the said judgment and decree, the suit stood dismissed, there was no occasion for the operation of such judgment and decree to be stayed in title appeal.
6. With the above observations, C.O. 3106 of 2023 along with I.A. No. CAN 1 of 2023 (Not in File) stand disposed of.
7. The learned Additional District Judge, 1st Court, Malda is requested to dispose of the Title Appeal No. 15 of 2022 as expeditiously as possible without granting any unnecessary adjournment to either of the parties.
8. There shall be, however, no order as to costs.
9. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(HIRANMAY BHATTACHARYYA, J.)