

January 2, 2024
Sl. No.3
Court No.19
s.biswas

CO 3332 of 2023

Prashanta Kumar Dutta and others

vs.

Smt. Kabyashree Mukherjee

Mr. Sounak Bhattacharya

Mr. Shaunak Mondal

Ms. Tithi Mazumder

... for the petitioners

Mr. Probal Mukherjee, Sr. Adv.

Mr. Siddhartha Goswami

... for the opposite party

This court does not find any reason to interfere with the order dated April 1, 2023 passed by the learned Civil Judge (Senior Division), 3rd Court at Howrah.

The petitioners contend that the application under Section 151 of the Code of Civil Procedure, seeking assignment of Rs.40 lakhs which was deposited by the decree holder towards execution of a decree for specific performance was rejected without considering the fact that the money was deposited by the decree holder to the credit of the learned court and not to the credit of the judgment debtors. It is further contended that one of the judgment debtors expired.

I find from the order impugned that the learned court has specifically recorded that the money had been deposited to the credit of the judgment debtor and not the learned court. The challan also

indicates in column no.2 that the money was deposited in the name of the judgment debtors.

Thus, as the learned court below has clarified the position, nothing remains to be decided in the revisional application.

The revisional application is thus disposed of. The learned court below shall proceed in accordance with law. The execution of the decree must be completed expeditiously as the judgment and decree of the learned trial judge has been affirmed in the first appeal by this court being F.A. 150 of 2010 by a judgment delivered on September 29, 2022, with slight modification.

This court is of the view that the process by which the execution shall be completed, is exclusively within the domain of the learned executing court and the facts and circumstances pleaded in the revisional application do not require any interference.

All the parties are directed to act on the basis of the server copy of the order.

Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)