

D/L
Item No. 41
15.05.2024
KOLE

CO 3304 of 2015

Ajoy Kumar Banerjee
-Vs.-
Prafulla Kumar Banerjee & Ors.

Mr. Kushal Chatterjee,

...for the petitioner.

- 1.** Learned Advocate appearing on behalf of the petitioner/decreed holder is present.
- 2.** There is no representation on behalf of the opposite parties.
- 3.** The instant revisional application is filed at the behest of the petitioner/decreed holder challenging the impugned order dated August 7, 2015 passed by the learned Executing Court in connection with title Execution Case No. 2 of 2003.
- 4.** It appears that the petitioner had filed a suit with a prayer for partition in respect of the suit property being Title Suit No. 1 of 1986 and the said suit was finally decreed. Thereafter, the said decree was put into execution being Title Execution Case No. 2 of 2003. In the meantime, the judgment debtors preferred an appeal before this Court challenging the said decree passed by the learned Trial Court and the said First Appeal being FA No. 138 of 2000 was dismissed for default.
- 5.** During the pendency of the said title execution case, the judgment debtor nos. 1 to 4 died and heirs/legal representatives of the judgment debtor no. 1 filed two

applications one of which was for modification of the preliminary decree and another for directing the decree holder to recalculate the shares of the parties afresh under the changed circumstances before the said Executing Court. The learned Executing Court after hearing all the respective parties passed the order no. 75 dated June 10, 2014 by which those two petitions filed by the heirs of the legal representatives of the judgment debtor no. 1 was dismissed by holding that the Partition Commissioner had held that no recalculation of share is required.

6. In the meantime, an order was passed by this Court in CO No. 3539 of 2014, whereby direction was given upon the Executing Court to complete the execution proceedings within two months from the date of passing of the order.

7. The present revisional application was preferred by the decree holder/petitioner challenging the impugned order dated August 7, 2015 passed by the learned Executing Court by which the petition dated June 10, 2014 filed by the decree holder was disposed of by giving some directions upon the decree holders/petitioners. The said order is challenged at the behest of the petitioner in this revisional application.

8. It appears from the earlier order passed by this Court dated February 9, 2024, that the petitioner was directed to submit the present status/stage of the title suit being No. 1 of 1986 pending before the learned Trial Court.

9. Learned Counsel appearing on behalf of the petitioner candidly submits that he could not be able to communicate

with the petitioner and he leaves the matter upon the Court to pass appropriate order.

10. It appears that the instant revisional application was filed in the year 2015 challenging the impugned order dated August 7, 2015 and since then it was pending and reasonably it can be presumed that the present petitioner has lost interest to proceed further with the present application and as such there is no justification to keep this revisional application alive.

11. Accordingly, the revisional application being No. CO 3304 of 2015 along with the connected application, if any, are hereby dismissed for default. Interim order, if any, stands vacated.

12. There will be no order as to costs.

(Prasenjit Biswas, J.)