

28.02.2024
Ct. No. 19
Sl. No.42
Cp

C.O. No. 3549 of 2023

Subhas Chandra Mondal & Ors.

Vs.

Soumen Sarkar & Ors.

Mr. Partha Pratim Roy

Mr. Prasanta Bishal

.....for the petitioners.

Mr. Jayanta Banerjee

Mr. Asish Sasmal

...for the opposite party.

No useful purpose will be served in keeping the revisional application pending. It appears that the learned Civil Judge (Senior Division), Katwa, Purba Bardhaman by the order dated September 27, 2022, rejected an application for stay of operation of the judgment and decree appealed from, on the ground that no execution case was pending.

The learned advocate for the petitioners refers to the records and submits that a protective order in the nature of an injunction ought to have been passed by the learned court, restraining the decree holders from either putting the decree into execution or continuing with any execution case during the pendency of the Title Appeal.

The revisional application is disposed of with the following directions:-

- a) The Title Execution Case No. 3 of 2023 arising out of Title Suit No. 27 of 2013, shall remain stayed till the disposal of the appeal, provided the petitioners deposit a sum of Rs.1000/- as occupational charges month by month every month, on and from the date of the decree.
- b) The amount of Rs.20,000/- which was directed to be paid by this court and if paid, shall be adjusted against the arrears. If not paid, the same will be paid within March 10, 2024.
- c) The remaining arrears if any, shall be deposited along with the occupational charges for the current month. The amounts shall be deposited in the executing court and a calculation to that effect shall be filed before the learned appellate court.

By an order dated October 10, 2023, it was directed that the payment shall commence from the month of October, 2023 and will be deposited within November, 2023 and thereafter month by month. Thus, the same order shall continue and the rent for each month shall be deposited within 10th of the succeeding month before the learned executing court.

If there is any default prior to this order, the same shall be deposited at one go before the learned executing court by March 10, 2024. Compliance affidavit shall be filed in the appellate court.

In case of non-compliance of this order, the decree holders shall proceed with the execution, and the stay will be vacated.

The Title Appeal shall be disposed of within a year from the date of communication of this order.

The revisional application is accordingly disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)