

16.05.2024
Item No.32
Court No.655.
S. De

C.O. 3922 of 2015
Sri Ananda Chakraborty & Ors.
Vs
Basanti Chakraborty & Ors.

Mr. Ranjan Kali,
Ms. Mitul Chakraborty,
Ms. Payel Nath,
Mr. Bidhan Sarkar,
...for the opposite parties.

1. Petitioners are not represented.
2. Mr. Ranjan Kali, learned counsel appearing on behalf of the opposite parties is present.
3. This instant revisional application is filed at the behest of the petitioners challenging the impugned order dated September 23, 2016 passed by the learned Trial Court in connection with Title Suit No. 95 of 2014. By passing the impugned order learned Trial Court rejected the application filed by the present petitioners under Section 10 of the Code of Civil Procedure.
4. It is stated that the opposite parties (herein) as plaintiffs have instituted a suit with a prayer for partition and injunction being Title Suit No. 95 of 2014 before the Court of Civil Judge (Senior Division) at Uluberia and that suit is still pending. Opposite parties also filed another suit for partition being Title Suit No. 322 of 2012 before the Court of learned Civil Judge (Junior Division), 1st Court, Uluberia which is

also still pending. The present petitioners as defendants entered appearance in the said Title Suit being No. 322 of 2012 and are contesting the same.

5. It is further stated that the petitioner (herein)/defendant no. 1 filed a case with a prayer for getting order of probate being Probate Case No. 19 of 2007 before the learned Civil Judge (Junior Division), 1st Court Uluberia and the same was transferred to the Court of learned District Judge at Howrah and renumbered as Probate Case No. 11 of 2009. The said probate case was dismissed on 14.08.2013 by passing an order of the learned Additional District Judge, 3rd Court at Howrah. Against the said order the petitioners have preferred an appeal being F.A.T. No. 448 of 2013 before this Court which is still pending and has not yet been adjudicated. The present petitioners filed a petition under Section 10 of the Code of Civil Procedure in Title Suit being No. 95 of 2014 with a prayer for stay of further proceeding of Title Suit No. 95 of 2014 filed by the opposite parties (herein) till the disposal of Title Suit No. 322 of 2012 and F.A.T. No. 448 of 2013.

6. The learned Trial Court dismissed the said petition preferred by the present petitioner praying for stay of further proceeding of Title Suit No. 95 of 2014 by passing the impugned order. Being aggrieved and dissatisfied with the said impugned order the present

revisional application has been filed on behalf of the petitioners.

7. Learned counsel appearing on behalf of the opposite parties submits that due to pendency of this revisional application, the Title Suit instituted by the opposite parties (herein) could not be proceeded with.

8. Anyway, it appears that the present revisional application is filed in the year 2015 and it is reasonably presumed that present petitioners are not interested to proceed with the present revisional application. So, there is no option left but to dismiss the present revisional application.

9. Accordingly, C.O. 3922 of 2015 is, hereby, dismissed for default.

10. Interim order, if any, stands vacated.

11. There will be no order as to costs.

(Prasenjit Biswas, J.)