

Item No.6
15.03.2024
Court. No. 19
GB

C.O. 4089 of 2023

Arup Dutta @ Dhaanpati Dutta & Ors.
Vs.
Sri Sudhir Chandra Karmakar

Mr. Gautam Banerjee

...for the Petitioners.

It is submitted that the learned Civil Judge (Junior Division), 1st Court at Chandannagore, District – Hooghly has not proceeded with the Title Execution Case No.17 of 2001, although there was a direction of a coordinate Bench of this Court dated March 18, 2019. The learned executing court was directed to take steps for reconstruction of the records by inviting the parties to file copies of the pleadings and other relevant documents in their custody. The learned executing court was also requested to make an endeavour to dispose of the execution case itself at the earliest and preferably within six months from the date of reconstruction of the records. It is submitted that an application was filed before the learned court, but no steps were taken.

Considering the submissions, this Court is of the view that the prayer of the petitioners is innocuous. Neither party stands to lose if a proceeding is disposed of expeditiously. In fact, such expeditious disposal shall enure to the benefit of the parties. Hence, there is no requirement for service of prior notice upon the opposite party.

The petitioners pray that direction be given to the learned court to complete the reconstruction of the file and proceed with the execution case.

It appears that several years have passed but no steps have yet been taken by the learned court, even the application for reconstruction was filed sometime in 2015 which was not disposed of by appropriate directions. There is sheer non-compliance of the direction of the coordinate Bench of this Court. This is unfortunate.

The petitioner is granted liberty to file all the relevant documents necessary for the execution case which are in his custody along with an application for reconstruction on the basis thereof. Such application will be filed upon notice to the opposite party/judgment debtor and the learned court shall proceed in accordance with the directions already passed earlier and the direction of this Court. This mandatory direction shall be complied with and necessary report shall be filed before the learned Registrar General upon disposal of the execution proceeding.

This court has not expressed any opinion on the merits of the execution case. The learned court shall proceed independently and in accordance with law.

A copy of the revisional application, along with a server copy of this order be served upon the opposite party and/or the learned advocate contesting the matter on behalf of the opposite party in the learned court below.

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.)