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C.O. 3927 of 2024

**Umar Faruk Gazi & Anr.
Vs.
Golam Mustafa Molla & Ors.**

Mr. Animesh Paul
Ms. Kriti Keshri
Ms. Manisha Kr. Upadhyay ...for the Petitioners

Mr. Sandeep Prasad Shaw
Mr. Aman Kumar Singh
Mr. Bishal Ghosh
...for the Opposite party
Nos. 1, 2, 3(a), 3(b), 5

The impugned order dated 19th July, 2024 is under challenge in the instant application whereby and whereunder the court below has stayed the Partition suit being no. 114 of 2018 till disposal of the Misc. case being no. 40 of 2022 filed under Order IX rule 13 of the Code of Civil Procedure.

Being aggrieved by the aforesaid order, learned counsel for the petitioners submits that the Trial court after granting such order of stay on 19th July, 2024, has not yet disposed of the aforesaid Misc. case being no. 40 of 2022 and the court below has fixed 21st February, 2027 as the next date for service return in connection with service of application upon all the opposite parties.

It appears that aforesaid Partition suit was decreed in preliminary form in favour of the plaintiff and thereafter, the defendants appeared and filed the

aforesaid Misc. case under Order IX rule 13 of the Code for setting aside the ex parte decree.

Having heard learned counsel for both the parties, the instant application being C.O. 3927 of 2024 is hereby disposed of by giving liberty to the petitioners herein to file a put-up petition for preponing the date along with written objection if any, in connection with application under Order IX rule 13 of the Code, within a period of two weeks.

In the event of filing such put-up petition with a prayer for preponing the date, the learned court below will fix the next date within a period of two weeks thereafter and will dispose of the application being Misc. case being no. 40 of 2022 preferably within a period of three weeks thereafter.

Both the parties are directed to cooperate with the court below to dispose of such application and the court below if required, will conduct the hearing of the aforesaid Misc. case on day to day basis.

Urgent Photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)