

Misc. Case No. 3082 of 2017

Order No. 186

15.02.2020

On behalf of the petitioner, Manoj Kr. Khattar @ Jain, one time petition is filed on the ground of illness and it is further stated that copy of medical certificate is annexed herewith.

OP no. 5, Jitendra Nath Roy takes steps through Ld. Advocate.

Today is fixed for further examination-in-chief of PW1, Manoj Kr. Khattar. Another petition on behalf of the petitioner is filed with a prayer for extension of ad interim order passed by this court.

Accordingly, the record is taken up for hearing. Ld. Lawyer for the petitioner submits that due to illness of the petitioner, Manoj Kr. Khattar, he could not come.

Other side has strongly raised objection by submitting that the petitioner has been enjoying the stay order for long time against the decree of execution and the decree holder after getting the decree of the property has not yet been able to enjoy the fruits due to the stay order and dilatory tactics adopted by the petitioner as a judgment debtor.

Having heard both sides and having perused the record, it appears that on last occasion at the instance of the petitioner, the case was adjourned subject to the payment of cost of Rs. 2,000/- as CP. But today there is no attempt and gesture on the part of the petitioner to pay that cost. It is pertinent to mention that though the petitioner has claimed that medical certificate has been annexed but the document as annexed is not the medical certificate rather it is a prescription of the Doctor which is not enough to consider that petitioner is really prevented for coming to depose on account of his illness. On the contrary, he has been enjoying the stay order against the execution of the decree by time to time filing extension prayer.

However, for the ends of justice, one last chance is given to the petitioner subject to the payment of another cost of Rs. 5,000/- as CP.

It is made clear that on next date, petitioner to be allowed to participate after payment of total cost of Rs. 7,000/-. If he fails, then he will be debarred from the participation. It is further made clear that If time petition is again filed without any cogent reason, then no further opportunity to be given to the petitioner, the instant Misc. Case to be dismissed straightway.

To 21.03.2020 for further examination-in-chief of PW1 and payment of cost of Rs. 7,000/- as CP by the petitioner to the OP/decreed holder. Parties come with preparation. Ad interim order of stay is extended till 21.03.2020.

Dictated & corrected by me:

Judge

Judge