

Title Appeal – 69/21
CIS – 367/17

Order No.32 dated 03.01.2023:

Today is fixed for hearing of stay petition filed by appellant and petition under Order 41 Rule 27 of CPC filed by respondent No.1.

Appellant and respondent No.2 file hazira.

Respondent No.1 takes no steps. On repeated calls none appears on behalf of the respondent No.1.

The stay petition is taken up for hearing.

Heard the Ld. Advocate appearing for the appellant and the respondent No.2.

Perused the petition and materials on record. Considered.

By filing the instant petition the appellant had prayed for stay on the ground the pendency of CO No.1108 of 2019 before the Hon'ble High Court. CO No. 1108 of 2019 has already been disposed of by the Hon'ble Court by order dated 14.02.2022. So, the application for stay has become infructuous and the same stands rejected.

None appears on behalf of the respondent No.1 who filed the application under Order 41 Rule 27 CPC. So the application under Order 41 Rule 27 CPC is dismissed for non prosecution.

At the time of hearing it was pointed out by the Ld. Advocate appearing for the appellant that an application under Order 1 Rule 10(2) CPC filed by the appellant is pending and it should be heard and disposed of before hearing of the instant appeal.

Perused the record. Considered.

The appellant filed an application under Order 1 Rule 10(2) read with Section 151 CPC on 30.01.2019 praying for impleading Federal Bank Ltd. as respondent in this appeal. By Order No.16 dated 11.03.2019 this Court was pleased to fix hearing of appeal along with application under Order 1 Rule 10(2) read with Section 151 CPC. The appellant being aggrieved by and dissatisfied with the Order No. 16 dated 11.03.2019 preferred CO No. 1108 of 2019 before the Hon'ble High Court. CO No. 1108 of 2019 has already been disposed of by the Hon'ble High Court by order dated 14.02.2022. The relevant portion of the order of Hon'ble High Court dated 14.02.2022 passed in CO No. 1108 of 2019 is reproduced herein below:-

“The appeal Court below by the said order fixed a date for hearing of the said appeal along with the application under Order 1 Rule 10(2) of the Code of Civil Procedure filed by the petitioner.

The appeal Court below by fixing the date of hearing of the appeal and application thereto has not committed any jurisdictional error warranting interference in the impugned order”.

In view of the order of the Hon'ble Court passed in CO No. 1108 of 2019, the appeal is being fixed for hearing along with application under Order 1 Rule 10(2) read with Section 151 CPC.

Fix 23.02.2023 for hearing of appeal along with application under Order 1 Rule 10(2) read with Section 151 CPC.

Dict. & corr. By me.
Sd/- Sri. Shailendra Kumar Singh
Addl. District Judge, 2nd Court,
Serampore, Hooghly.

Sd/- Sri. Shailendra Kumar Singh
UID No. - WB665
Addl. District Judge, 2nd Court,
Serampore, Hooghly.

