

Misc Appeal 6/2023
Present: Smt. Papiya Das (J.O.No. WB00736)
Addl. District & Sessions Judge,
Alipurduar.

Order No.2
dt. 18.03.23.

Today is fixed for admission admission.

Heard Ld. Advocate for the appellant.

Ld. Advocate on behalf of the appellant submits that the impugned order was passed on 21.01.2023. The appellant applied for obtaining ,the certified copy of impugned order on 10.02.23 and he received the certified copy thereof on 24.02.23. The instant Misc Appeal was filed on 27.02.2023. By excluding the time for obtaining the certified copy of the impugned order, it transpires that the instant appeal has been filed well within the period of limitation. The instant appeal is filed well within the time, properly stamped and thus it is admitted.

Now the stay petition is taken up for hearing.

Perused the stay petition, affidavit and other materials on record.

Considered.

I find from the impugned order that Ld. Court below has passed an order of maintaining staus quo by both parties. I do find that there is no urgency in stay of the impugned order. I further find that the present Appellant will not be prejudiced if an order of stay is not passed. In my considered view, the actual dispute involved in the present Misc Appeal is to be decided in hearing in presence of both parties and it is not wise and prudent to pass an order of stay staying the impugned order without hearing the other side.

Hence stay of impugned order is **refused**.

Appellant is to put requisites at once.

To 30.05.23 for S/R & appearance.

Dictated & Corrected
by me

Addl. District Judge,
Alipurduar.

Addl. District Judge,
Alipurduar.

