

EJECTMENT SUIT NO. 391 OF 2013 [5778/2014]  
C. N. R. NO. WBPS01- 000451- 2013  
Before Smt. A. Bhattacharya, Ld. Judge, 5<sup>th</sup> Bench.

ORDER NO. 75 DATED 07.11.2024

Plaintiff files hazira.

Defendant files a petition along with an Advocate's letter praying for adjournment of hearing of this suit on the ground stated therein. Copy served.

Today is fixed for further cross examination of P.W.1 and payment of cost [C.P.] of Rs.1000/- by the defendant.

Ld. Advocates for both sides are present.

Heard ld. Advocates for both sides.

Perused the petition.

At the time of hearing, it is submitted by the ld. Advocate for the defendant that defendant has filed an Application under Art.227 of Constitution of India before Hon'ble High Court at Calcutta to set aside the order no.62 dated 29.11.2022 passed by this Court. That the said matter appeared on 03.09.2024 in the list being item no.11 and Ld. Court was pleased to stay the proceeding until last week of September 2024 or until further order whichever is earlier and listed the matter to appear on 17.09.2024 with further direction to intimate the order to this ld. Court as well as to the ld. Advocate of the O.P./Plaintiffs and since then the above matter is running in the list under the heading contested application. It is further submitted that the said case appeared before the Hon'ble Justice Bibhas Ranjan De on 03.09.2024 in the list being Item No.104 under the heading contested application no.3 and shall appear in the list on 07.11.2024 for hearing.

On the other hand, ld. Advocate for the plaintiff raises vehement objection and submits that there is no stay order as on this date from the Hon'ble High Court at Calcutta and as such, there is no embargo to further proceed with the instant suit. Ld. Advocate for the plaintiff has further submitted that if any adjournment be given to the defendant, plaintiff is entitled to heavy cost.

Considering the submissions of ld. Advocates for both sides, the petition and the materials on record, it appears that Hon'ble High Court at Calcutta was pleased to stay the further proceeding of the instant suit till the last week of September 2024 but thereafter, there is no stay in the instant suit as on this date. Merely filing of a Revisional Application before the higher court cannot be a ground for seeking adjournment. In this case, the Revisional Application was filed in the year 2022 and since then, a period of two years has already elapsed raising the age of the suit to 11 years with two years of only stay and adjournments. Time and again, the Hon'ble Apex Court and the Hon'ble High Court at Calcutta has been laying stress on disposing of cases more than 10 years old as expeditiously as possible. Defendant, in this case, has been taking advantage of the

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nittygritty of law and succeed in delaying the suit. Moreover, defendant has not yet complied with the direction of the Court vide order no.63 dated 21.12.2022 directing the defendant to pay a sum of Rs.1000/- as cost to the plaintiff.

However, one last opportunity is given to the defendant to bring necessary order from the Hon'ble High Court at Calcutta within the next date fixed in default of which the suit shall proceed in terms of law. Both parties are directed to prepare on the next date fixed.

Fix 10.12.2024 for payment of cost of Rs.1000/- and bringing necessary order by the defendant from Hon'ble High Court at Calcutta and further order.

Dictated and corrected by me,

JUDGE

JUDGE  
[5TH BENCH]