

11.04.2023
Court No. 654
Item no.164

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**In the High Court at Calcutta
Civil Revisional Jurisdiction
Appellate Side**

C.O. 3714 of 2022

Md. Samsuddin

Vs.

Goutam Dhar & Ors.

Mr. Sakya Sen
Mr. Sunil Gupta

...for the petitioner

This application under Article 227 of the Constitution of India is filed by the petitioner challenging the order dated 15th September, 2022 passed by the learned Civil Judge(Jr. Division), 1st Court, Jangipur, Murshidabad in O.S. 6 of 1998, rejecting the stay application of the petitioner.

The brief fact of the case is that the opposite parties filed a suit for eviction being O.S. 6 of 1998. In the said suit, the petitioner filed an application under Section 17(2) of the West Bengal Premises Tenancy Act, 1997 disputing his relationship with the plaintiffs as landlord-tenant. The application under Section 17(2) of the Act was dismissed by an order dated 9th April, 2021 on the ground that challenge to plaintiff's title is not appropriate being hit by *locus standi*. The said order was challenged in a revision being C.O. 1392 of 2021 along with C.O

1403 of 2021. Upon hearing, the said order was set aside with a direction upon the learned Trial Court to dispose of the application under Section 17(2) of the Act within six months from the date of communication of the order and further to adjudicate the dispute raised by the tenant as to the relationship. The petitioner herein filed an application for stay of further proceedings before the learned Trial Court on the ground that the dispute relating to ownership over the property in question between the plaintiff/opposite parties and the Murshidabad Zilla Parishad is pending before this Court in C.O. 3472 of 2019 which is relevant in the proceeding under Section 17(2) of the Act. The application for stay was rejected by the learned Trial Court citing direction of the Hon'ble Court passed in C.O. No. 1392 of 2021 and in C.O. No. 1403 of 2021 to dispose of the application under Section 17(2) of the Act within six months. Hence, this revision.

Mr. Sakya Sen, learned advocate for the petitioner submits that the dispute relating to the ownership over the suit property between the Murshidabad Zilla Parishad and the plaintiffs/opposite parties is very much pertinent so far as the dispute raised by the petitioner in his application under Section 17(2) of the Act with regard to his relationship with the plaintiffs-opposite parties

as landlord-tenant is concerned. Although, the learned Court observed that vital questions are involved in the suit but due to directions passed in C.O. 1392 of 2021 and C.O. 1403 of 2021 for disposing the application within six months, the Court rejected the application for stay. He submits for stay of all further proceedings.

It is found from the materials placed that the petitioner has challenged his relationship with plaintiffs-opposite parties as landlord and tenant in his application under Section 17(2) of the Act and has also claimed that the Murshidabad Zilla Parishad is the landlord of the petitioner. In a separate proceeding before the Block Land & Land Reforms Officer being the case of *Suo Motu* 1 of 2018, recording was made in favour of Murshidabad Zilla Parishad as the owner of the suit property. The order of the Block Land & Land Reforms Officer was challenged in Miscellaneous appeal being 3 of 2019 before the learned District Judge, Murshidabad wherein the order of the Block Land & Land Reforms Officer was set aside. Challenging the same, the revisional application has been preferred before the Hon'ble Court in C.O. 3472 of 2019, where the order passed by learned District Judge was stayed.

Primarily, it appears that the issue relating to the ownership of the suit property is pending before

the Hon'ble Court in C.O. 3472 of 2019. Such issue is also related to the issues raised by the petitioner in his application under Section 17(2) of the Act so far as his relationship with the plaintiffs-opposite parties as landlord-tenant is concerned. That being the position, although an order has been passed in a revisional application being C.O. No. 1392 of 2021 with C.O. No. 1403 of 2021 that the application under Section 17(2) of the Act may be concluded within six months, yet, since an arguable issue is raised by the petitioner touching the merit of application under Section 17(2) of the Act, the further proceeding before the Trial Court is required to be stayed.

Considering the same, there shall be stay of all further proceedings in O.S. 6 of 1998 pending before the learned Civil Judge(Jr. Division), 1st Court, Jangipur, Murshidabad till June 13, 2023 or until further orders, whichever is earlier.

Let this matter appear in the list on June 6, 2023 under the heading '*Extension of Interim Order*'.

The petitioner is directed to serve a copy of the revisional application upon the opposite parties as well as his learned advocate in the learned court below through speed post with acknowledgement due and file affidavit of service on the returnable date.

(Bivas Pattanayak, J.)