

Provat Kumar Mitra and anr. Vs. Sudipto Mitra and ors.

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Court : Kolkata

Decided On : Jul-28-2014

Judge : I. P. Mukerji

Appellant : Provat Kumar Mitra and anr.

Respondent : Sudipto Mitra and ors.

Judgement :

ALP No.12 of 2007 IN THE HIGH COURT AT CALCUTTA Extra Ordinary Original Civil Jurisdiction ORIGINAL SIDE PROVAT KUMAR MITRA & ANR.

Versus SUDIPTO MITRA & ORS.BEFORE: The Hon'ble JUSTICE I.P.MUKERJ.Date : 28th July, 2014.

Appearance: Mr.Joy Saha, Advocate Mr.Aditya Naskar, Advocate Mr.Subhajit Saha, Advocate for respondent No.2 The Court: None appears for the petitioners although this application has appeared more than once as For Orders.

This is an application under Clause 13 of the Letters Patent read with Section 24 of the Code of Civil Procedure.

No accommodation is sought on behalf of the petitioners although Mr.Saha, learned Advocate appears on behalf of the second respondent.

He shows me an order dated 29th October, 2013 passed by the Honble Supreme Court of India directing the court below to dispose of the suit expeditiously without granting any unnecessary adjournment.

Although about nine months have elapsed since passing of this order by the Honble Supreme Court of India, no progress has been made in the suit.

It is at the stage where only written statements have been received.

It is said that because of an order of injunction passed by this court in this application staying the suit at Sealdah, no progress of the suit was made in the court below.

It is further submitted that this order of stay was not vacated by the Honble Supreme Court and that is why the suit could not progress.

I am of the opinion that the learned Judge of the court below should have made a proper construction of the order of the Supreme Court.

The only construction that could have been made was that this order impliedly vacated the order of injunction passed by this court.

The suit should have been proceeded with.

Substantial progress should have been made in these nine months.

Although the petitioner does not come forward to press this application, on the above facts presented by Mr.Saha, learned Advocate, I think it fit, for proper implementation of the said order of the Honble Supreme Court and for the ends of justice to transfer the suit described in the prayer portion of this application and all interim applications to this court.

I order accordingly.

The Registry of this Court as well as that of the Sealdah Court will ensure that transfer is effected by 15th September, 2014 and the suit allotted a suit number.

This application is accordingly disposed of.

Certified photocopy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(I.P.MUKERJI, J.) G/

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