

Title Appeal 01 of 2018

Present : Smt. Mina Sarkar, Judge, Bench X.

Or. 16 / dt. 07.03.2019

Respondent files hazira.

Appellant files a petition to adjourn the hearing fixed today and subsequently “**not pressed**” the petition. The petition is considered and rejected being not pressed.

The petition dated 25.01.2019 along with petition dated 03.01.2019 filed by the appellant is taken up for hearing.

Heard both sides.

Perused the petitions.

It has been contended in the petition dated 25.01.2019 that an application for recalling order dated 20.12.2018 was filed and moved with put up petition on 03.01.2019 before Ld. Chief Judge and after hearing the submissions, Ld. Court was pleased to direct to put up the case on 10.01.2019 and the petitioner was directed to serve copy of application in the mean time. Pursuant to the direction of the court the petitioner served the copy upon the respondents by speed post, but from the cause lists it appeared that the record of appeal has been transferred to this court on 10.01.2019. The appellant prays for hearing of the application dated 03.01.2019 filed for recalling the order dated 20.12.2018.

In the other petition dated 03.01.2019 it has been contended that 13.09.2018 was fixed for hearing the stay petition filed by the appellant. The stay petition could not be heard on 13.09.2018 for the reason that the stay petition would be heard in presence of both the parties and/or their Ld. Advocate. 29.11.2018 was fixed for hearing the petition for stay, but on that date case was adjourned and next date was fixed on 20.12.2018. But on that day the petitioner could not present when the appeal was called on and in absence of the petitioner and his Ld. Advocate the petition for stay was rejected. There was no laches on the part of the petitioner. Thereafter Ld. Court was pleased to fix 10.01.2019 for transfer of the appeal to this Court for disposal. The petition further reveals that the circumstances was beyond the control of the petitioner.

The petitioner prays for recalling of the order dated 20.12.2018 and restoration of stay petition filed for stay of Ejectment Execution number 13 of 2018 pending before 6th Bench S.C Court till disposal of the appeal and to stay all further proceeding of the said Execution case.

During the course of hearing Ld. Advocate for the respondent has vehemently opposed the prayer of the appellant.

Having considered the submissions of both sides and contents of the petition dated 03.01.2019 I am of the view that the grounds set out in the petition is not at all convincing. It appears to me that the appellant / petitioner adopted delay tactic. Considering all I find no reason to recall the order dated 20.12.2018 passed by Ld. Chief Judge City Civil Court and it is liable to be rejected.

Hence this petition filed by the appellant is considered and rejected.

Fixing 01.04.2019 for hearing of the appeal.

Dictated & corrected by me,

Judge.

Judge , Bench-X
City Civil Court, Calcutta.