

Title Appeal 01 of 2018

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

Or. 18 / dt. 01.04.2019

Appellant files a petition for time on the ground stated in the petition.

Copy is served upon the respondents.

Today is fixed for hearing the appeal.

The petition for time is taken up for hearing.

Heard both sides.

Perused the petition for time.

Ld. Advocate for the appellant has submitted that the respondents has obtained order from Ld. Chief Judge, City Civil court in absence of the Ld. Advocate for the appellant and stay was rejected by Ld. Chief Judge, City Civil court. He has further submitted that this court was / is in lack of inherent jurisdiction to entertain the application dated 03.01.2019 and for that Misc Case no. 739 of 2019 has been filed. He has submitted that Hon'ble High court has been pleased to stay all further proceedings in Title Appeal no. 1 of 2018 pending before the Ld. Chief Judge, City Civil court, Calcutta till 31.01.2019 or until further order whichever is earlier. He has submitted that respondents filed that revisional application before the Hon'ble High Court and that application is still pending in the combine list of Hon'ble High court for the month January, 2019. He has submitted further that this court has passed order dated 07.03.2019 without jurisdiction and that order must be recalled and / or reviewed by this court. He has submitted that there is no stay order after 31.01.2019 passed either by Hon'ble High Court or by Ld. Chief Judge, City Civil Court. He prays for adjournment of hearing of the appeal.

Ld. Advocate for the respondents has raised strong objection against the prayer for time. Ld. Counsel for the respondents has submitted that there is no stay order after 31.01.2019. He has further submitted that this court can not review its own order dated 07.03.2019. He has further submitted that as there is no order of stay as on date so there is no legal bar to proceed with the hearing of the instant appeal. The object of the appellant is to drag the proceeding by hook or by crook and he prays for rejection of the petition for time

I have considered the submissions of both sides and on perusal of the petition for time hold that after hearing both the sides order dated

07.03.2019 was passed and I fail to understand why this court was / is in lack of inherent jurisdiction to entertain and disposed of the application dated 03.01.2019. I do not find any reason to adjourn the hearing the appeal today and as such the petition for time is considered and rejected.

Parties are directed to get ready for hearing of the appeal.

Dictated & corrected by me,

Judge.

Judge , Bench-X
City Civil Court, Calcutta.

Later

The case is called on for hearing again.

Ld. Advocate for the appellant has submitted that he will not proceed with the case and he has submitted that court may pass order accordingly.

Ld. Advocate for the respondents have submitted that the instant appeal was filed against the judgement and decree passed in Ejectment Suit no. 1289 of 2000 passed by Ld. VI Th Bench, Presidency Small Causes court, Calcutta but the said Ejectment suit was originally filed in the year 1997 and the appellant / defendant contested the suit and the suit was decreed on the grounds of defaulter in payment of monthly rent since February, 1968 and also for reasonable requirement of the plaintiffs / respondents. He has further submitted that Ld. Court below elaborately discussed in issue no. 4 of judgement that the appellant / defendant was directed to pay Rs. 2,66,287/- as principle and interest but the appellant / defendant did not comply the direction of Ld. Court below and for which the plaintiffs / respondents filed an application U/S 17 (3) W.B.P.T. Act which was allowed and defence of the appellant was struck out the said order was confirmed by Hon'ble High court. It is further submitted that since February, 1968 the appellant has been enjoying the suit property measuring about 1200 sq.ft at premises no. 32, Amherst Street without making any rent. The market rent of the said property will be Rs. 35000/- per month approx. It is further submitted that Rs. 5,50,000/- is due since February, 1968 to 31st October, 2017 and it is payable to the respondents. The appellant has failed to comply the direction of the Hon'ble Court to deposit the rent even after striking out the defence. The said order was affirmed by the Hon'ble High court and the appellant has no scope to deposit any rent in any manner at this stage and as such the

instant appeal is without any merit and vexatious. The appeal is not maintainable. The appellant is not at all interested to conclude the hearing of the appeal and as such the appeal is liable to be dismissed.

Considering the submissions of ld. Advocate for the appellants as well respondents I hold that the intention of the appellant is to drag the case but as the Misc Case being no. 739 of 2019 U/O 47 Rule 1 read with section 151 of C.P.C is pending, so I am inclined to dispose of the appeal.

To 04.05.2019 for further order.

Dictated & corrected by me,

Judge.

Judge , Bench-X
City Civil Court, Calcutta.