BEFORE
HON'BLE MR. JUSTICE S.R. SEN
CRP. No. 58 of 2013

21.05.2014

Heard Mr. K. Paul, learned counsel appearing for and on behalf of the petitioner, who submits that, the learned court below while passing the impugned order dated 28.10.2013 in Misc. Case No. 149(T) of 2012 has dismissed the prayer of the plaintiff and refused to grant the injunction as prayed for, and on the same day, the learned court below has also passed another order in Title Suit No. 92(T) of 2012 and dismissed the suit on maintainability.

The learned counsel also further contended that, he was not heard on the maintainability of the suit and the learned court below has passed the impugned order on 28.10.2013 in Title Suit No. 92(T) of 2012 dismissing the suit on maintainability. Hence, this instant Civil Revision Petition.

The learned counsel, Mrs. Y. Shylla appearing for and on behalf of respondent No. 2 submits that, in this case, petitioner was seeking time after time and ultimately; the learned court below has passed the order after hearing the submissions advanced by the respondents' counsel.

Also heard Mrs. T. Yangi, learned counsel appearing for and on behalf of respondent No. 1 who endorsed the submission advanced by the learned counsel, Mrs. Y. Shylla and further submits that the matter is pending since 2009.

I have perused both the impugned orders in Misc. Case No. 149(T) of 2012 as well as Title Suit No. 92(T) of 2012. I have also perused the order passed by this court vide order dated 01.04.2010 in WP(C) No. 352 (SH) 2009.

After considering the submissions advanced by the learned counsel at Bar and on perusal of the impugned orders in question as well as the order passed by this court in the writ petition referred above, I am of the view that this court has not decided the title of the suit. This court has simply observed that when the registration of the Sale Deed has already been taken into effect this court was reluctant to interfere with it. It does not mean that this court has decided the title between the parties.

I have also perused the impugned order passed in the Misc. Case referred above and after going through the Misc. Case, I did not see any reason to interfere with the said order passed by the learned court below. However, the order passed in the Title Suit No. 92(T) of 2012 on 28.10.2013 dismissing the Title Suit without taking into consideration the evidence, in my view is not proper. When issues are already framed, the court should give an opportunity to both the parties to lead their respective evidence, and thereafter, to hear them and to pass the judgment issue wise. I find that the order dated 28.10.2013 passed in Title Suit No. 92(T) of 2012 has not met the ends of justice. Hence, the impugned order dated 28.10.2013 passed in Title Suit No. 92(T) of 2012 is hereby set aside.

The matter is remanded back to the learned court below with a direction to allow all the parties to lead their evidence and then to hear the parties and to decide the matter issue wise preferably within a year from the date of receipt of the copy of this order. It is further directed that the counsel for the parties will co-operate with the court and will not seek the adjournment until and unless it is very much required beyond any control. It is also further ordered that during the pendency of the suit none of the parties will interfere with each other regarding their respective possession.

Registry is directed to roll back the Lower Court case record along with a copy of this order to the learned court below.

Accordingly, the matter stands disposed of.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
MC(WP)(C)) No. 143 of 2014

21.05.2014

In the light of the order passed in ***WP(C) No. 189 of 2011*** this instant Misc. Case also stands disposed of.

JUDGE

V. Lyndem

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
MC(WP)(C)) No. 259 of 2012

21.05.2014

In the light of the order passed in ***WP(C) No. 194 of 2012*** this instant Misc. Case also stands disposed of.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP(C) No. 189 of 2011

21.05.2014

The learned counsels for both the parties are present.

Judgment and Order containing of 4(four) pages delivered today in open court.

The matter stands disposed of.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP(C) No. 194 of 2012

21.05.2014

The learned counsels for both the parties are present.

Judgment and Order containing of 9(nine) pages delivered today in open court.

The matter stands disposed of.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP(C) No. 321 of 2012

21.05.2014

Heard Mr. L.R. Das, learned counsel for the petitioner as well as Mrs. S. Bhattacharjee, learned State counsel.

The learned counsel for the petitioner submits that, a letter has already been issued stating the status of the case of the petitioner, however, that has not been placed before this court.

Mrs. S. Bhattacharjee, the learned State counsel present in the court also admits the fact and she is directed to file the affidavit in that regard within 3(three) days.

List this matter after 3(three) days' for hearing.

JUDGE

D. Nary