

HIGH COURT OF TRIPURA
AGARTALA

CRP No.16 of 2024

Prabharani Debnath
..... Petitioner(s).
Versus
Smt. Santi Bala Debnath and another
..... Respondent(s).

For Petitioner(s) : Mr. S. S. Debnath, Advocate.
For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

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01/03/2024

Heard Mr. S. S. Debnath, learned counsel for the petitioner.

[2] By the impugned order passed in Misc. (Appeal) No.1 of 2024, the learned District Judge, South Tripura, Belona has dismissed the appeal and rejected the prayer of the petitioner for grant of status quo during pendency of an application made by her under Order IX Rule 13 of the CPC for setting aside the decree and under Order XXI Rule 99 of CPC for restoration of her possession. The learned appellate Court is inclined to hear the appeal on merits itself. It is not in dispute that the petitioner was not a party to Title Suit (P) No. 01 of 2015 and in pursuance of the judgment and decree passed in that suit, she has been dispossessed from this land in question. Thereafter, she has preferred an application under Order IX Rule 13 of CPC for setting aside the decree. She has also filed application under Order XXI Rule 99 of the CPC complaining of dispossession. That application is pending and in the meantime this application for temporary injunction restraining the opposite parties to make any

construction or not to change the nature and character of the suit land thereof under Order XLIII Rule 1(r) of the CPC was rejected by the learned executing Court. The miscellaneous appeal preferred against that order dated 25.01.2024 passed by the learned Civil Judge (Jr. Division), Belonia, South Tripura in Misc. (Inj.) No.07 of 2023 (arising out of Ex.T. No.06 of 2020) has also been rejected by the impugned order.

[3] Mr. S. S. Debnath, learned counsel for the petitioner submits that the opposite parties are likely to alienate the land. This may cause irreparable injury to the petitioner and also lead to multiplicity of proceeding if the application under Order XXI Rule 99 of CPC is not allowed in her favour. Therefore, an order of status quo may be granted.

[4] I have considered the submission of the learned counsel for the petitioner and gone through the relevant documents and the impugned order placed from the record. Petitioner admittedly is a person dispossessed from the suit land upon execution of a decree passed in Title Suit (P) No. 01 of 2015. She has filed an application under Order XXI Rule 99 of CPC alleging wrongful dispossession. That application is pending before the executing Court. As such, petitioner's title is not yet established. Moreover, the petitioner admittedly has already been dispossessed from the suit land. Therefore, the learned trial Court and the appellate Court did not find any prima facie case to grant temporary injunction in her favour. The appellate Court is inclined to hear the miscellaneous appeal on merit itself. The impugned order of the learned appellate Court dated 12.02.2024 therefore does not suffer from any jurisdictional error calling for interference under Article 227 of the Constitution of India.

Accordingly, the instant application is dismissed. Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ

