

Party Name : SURESH CH. SUTRADHAR Vs NARAYAN DEBNATH & ORS

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THE HONBLE MR. JUSTICE S.C.DAS

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Heard learned counsel, Mr. P. Saha for the petitioner.

This is a petition filed under Article 227 of the Constitution of India challenging the judgment and order dated 27.04.2015 passed by learned District Judge, West Tripura, Agartala in Case No. Misc. Appeal 05 of 2013, whereunder the learned District Judge allowed the appeal, set aside the interim order of injunction dated 07.12.2012 passed by learned Civil Judge, Junior Division, Court No.1, Agartala, West Tripura in Case No. Civil Misc.134 of 2012, arising out of Title Suit No.79 of 2012.

Title Suit No.79 of 2012 has been instituted seeking declaration of right, title and interest, confirmation and recovery of possession and also for perpetual injunction. In the prayer of the plaint there is nothing mentioned as to for which portion of the suit land the plaintiff prayed for recovery of possession and for which portion of the suit land the plaintiff prayed for confirmation and injunction.

It is an admitted position that the plaintiff-petitioner earlier instituted Title Suit No.42 of 2011 against three of the respondents seeking declaration of right, title and interest and ejection of the defendants from the suit land. The suit land is same and that suit was withdrawn with a liberty to file a fresh suit.

Subsequent Title Suit No.79 of 2012 has been instituted by the plaintiff-petitioner seeking declaration, confirmation and recovery of possession of the suit land. The very institution of the suit is confusing as to whether the plaintiff-petitioner sought for confirmation of possession or for recovery of possession.

The trial Court passed an *ex parte* order of injunction. The order has been challenged before the learned District Judge by filing Civil Misc. Appeal No.05 of 2013 and the learned District Judge by a reasoned order allowed the appeal and set aside the *ex parte* order dated 07.12.2012 passed by the learned Civil Judge.

I find no infirmity in the order passed by the learned District Judge. The plaintiff-petitioner may approach the trial Court if he has cause of action for filing a fresh application seeking injunction. But as regards the present order in question, I find no irregularity and infirmity in the order and hence, the revisional application filed by the petitioner under Article 227 of the Constitution of India since found to be devoid of any merit stands dismissed.