

15.12.2020
Court No. 19
Item No.26
CP

C.O. 1103 of 2020

Ananda Pramanik
vs.
Niyati Ghosh & ors.

Mr. Manas Kumar Das

....for the petitioners.

By this application the petitioner who is a defendant in Title Suit No. 104 of 2017, has challenged the order dated February 11, 2020, passed by the learned Civil Judge (Junior Division), 2nd Court, Kandi, Murshidabad, rejecting an application under Section 151 of the Code of Civil Procedure on the ground that the application under Section 151 of the Code of Civil Procedure which was essentially an application for variation or modification of the ad interim order of injunction was not maintainable, more so, because the petitioner had not annexed evidence of receipt of the government fund under the Pradhan Mantri Abas Yozona along with the sanction plan.

It is the contention of the petitioner that the petitioner had annexed the receipt showing that funds had been disbursed in his favour and also the sanction plan before the learned court below.

The learned advocate for the petitioner refers to the application under Section 151 of the Code of Civil Procedure in order to establish that grant of funds

and approval of sanction plan by the municipality was mentioned and copies were also filed along with the said application.

There is nothing on record for this court to ascertain whether the said sanction plan and the receipt of the money received was annexed to the said application or filed by way of FIRISTI before the court below. The learned Advocate has failed to prove the filing of the same.

Under such circumstances, I do not find any illegality in the order impugned.

However, rejection of this revisional application shall not prevent the petitioner from filing an appropriate application as per law on the self same cause of action with better particulars in the court below along with the documents required by the court for proper disposal of the said application.

If such application is filed, the learned court below shall dispose it of expeditiously on its own merits without being influenced by this order and upon giving an opportunity of hearing to all parties.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible subject to compliance of all usual formalities.

(Shampa Sarkar, J.)