

23,DL,Ct.05.
08.09.2020
AJ.

C.O. 1200 of 2020

C.A.N. 1 of 2020

**Abu Hanifa Sardar & Anr.
-Vs-
Gurudas Halder & Ors.**

Mr. Jishnu Chowdhury,
Mr. Dwaipayan Basu,
Mr. Mayukh Maitra.
... for the petitioners.

Mr. Suman Sankar Chatterjee,
Mr. Anindya Sundar Das.
....for the opposite party no.1.

The revisional application under Article 227 of the Constitution of India is at the instance of the defendants in a suit for partition and injunction and is directed against orders dated January 14, 2020, February 01, 2020, February 18, 2020, March 04, 2020, March 19, 2020 and May 28, 2020 passed in Miscellaneous Appeal No. 2 of 2020 by the learned Additional District and Sessions Judge, Baruipur, South 24-Parganas.

The petitioners being aggrieved by an ad-interim order of injunction passed on December 23, 2019 by the First Court of learned Civil Judge (Junior Division) at Baruipur District. 24 Parganas (South) in Title Suit No. 597 of 2019 has preferred the connected miscellaneous appeal.

The Appeal Court below by the impugned order dated January 14, 2020 has admitted the said appeal but on the subsequent dates the hearing of the said appeal did not commence. The orders passed on

the said subsequent dates are also under challenge in the present application.

Mr. Chowdhury, learned advocate appearing on behalf of the petitioners submits that his clients are constructing a petrol pump on the suit property and such construction when was almost at the verge of completion and the petrol pump is about to function the plaintiff/opposite party has filed the connected suit for partition of his negligible share in the suit property and has obtained an ad-interim order of injunction stalling the proposed business activities of his client. He further submits that if the petrol pump cannot be made functional within a short time the license of his client would be cancelled.

On perusal of the records I find substance in the submission of Mr. Chowdhury. The miscellaneous appeal is required to be disposed of expeditiously.

The Courts are although not functioning normally due to the prevailing situation but, considering the urgency of the matter, C.O. 1200 of 2020 is disposed of with a request to the learned Additional District and Sessions Judge, Baruipur, South 24-Parganas to dispose of the Miscellaneous Appeal No.2 of 2020 expeditiously preferably within a period of four weeks from the date of communication of this order.

The petitioners are at liberty to pray for fixation of earlier dates for hearing of the said miscellaneous appeal.

The plaintiff/opposite party no.1 since is seeking injunction only against the petitioners, service of notice of the said appeal upon the other respondents of the said appeal is not necessary and is accordingly dispensed with.

However, it is made clear that this Court has not gone into the merit of rival contention of the parties and it is for the Appeal Court below to decide the same in accordance with law.

The appeal Court below to adhere to the time limit fixed by this order for disposal of the said miscellaneous appeal shall not grant any unnecessary adjournment to either of the parties.

C.O. 1200 of 2020 is, thus, disposed of, the connected application being CAN 1 of 2020 is also disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)