

15.12.2020
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C.O.3525 of 2018

Ambar Kumar Bhattacharya
Vs.
Pritambar Bhattacharya & Ors.

Mr. Partha Pratim Roy,
Mr. Sarbananda Sanyal
... For the Petitioner.

The plaintiff in a suit for partition has filed the instant application under Article 227 of the Constitution of India challenging the order No.17 dated 22.2.2018 passed by the learned Civil Judge(Senior Division), 1st Court at Krishnanagar, Nadia in Title Suit No.160 of 2016.

By the order impugned the application filed by the plaintiff under Section 36 read with Section 151 of the Code of Civil Procedure for Police help was rejected.

Mr. Partha Pratim Roy, learned Advocate appearing for the petitioner submits that the defendant/opposite party No.1 herein is threatening the petitioner that the house of the petitioner would be put under lock and key and the plaintiff would not be allowed to enter into the suit property. He further submits that the defendant No.1 is threatening that the ancestral family puja would not be allowed at the suit property which compelled the plaintiff to file the instant application praying for implementation of the status quo order through Police help. Mr. Roy refers to

a judgment reported at 2010(2) CLJ 110, in support of his submission that an order of status quo can be implemented through Police help.

It appears from the record that the application under order 39 Rule 1 and 2 of the Code of Civil Procedure was disposed of by directing the plaintiff and the defendant No.1 to maintain status quo with regard to possession, nature and character of the scheduled property till the disposal of the suit.

There is no quarrel to the law laid down in the case of Sri Paresh Chandra Das versus Sri Bikash Kumar Das & Ors. reported at 2010 (2) CLJ (Cal) 110 that police help can be granted to implement the order of injunction in case a party tries to raise construction in violation of the order of injunction.

The said reported case, relied upon by Mr. Roy, do not have any manner of application in the instant case as the petitioner herein is seeking protection of his right to perform the ancestral family puja which right has not been recognised by the order sought to be implemented through Police help.

Petitioner herein is trying to make out a new case in the application for police help alleging that the opposite parties are threatening to obstruct the petitioners in the matter of performance of the ancestral family puja. The order of status quo is silent

with regard to the claim of the petitioner with regard to performance of the ancestral family puja. Thus, no direction can be passed upon the police to protect the petitioner's right to perform such puja which is yet to be recognised.

The learned court below was justified in rejecting the application for police help. The impugned order does not suffer from any infirmity warranting interference under Article 227 of the Constitution of India. C.O. No. 3525 of 2018 is dismissed without however any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on priority basis upon compliance of all formalities.

(Hiranmay Bhattacharyya,J)