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C.O. No.3811 of 2019

**Sri Subhash Chandra Basu & Ors.
Versus
Swapam Ghosh & anr.**

(Via Video Conference)

Mr. Saptanshu Basu, Sr. Adv.,
Mr. Sudip Ghosh ... For petitioners.

Mr. Nilanjan Bhattacharya For opposite parties.

This revision petition is directed against judgment dated 8th April, 2019 delivered by Additional District Judge, 3rd Court, Howrah in Misc. Appeal no.210 of 2018 (Sri Subhash Chandra Basu & Ors. – Versus – Swapam Ghosh & anr.).

Mr. Basu, learned senior advocate appears on behalf of petitioners and submits, the appeal was preferred on refusal of trial Court to pass ad interim order, where his clients had prayed for restraining defendants from interfering with peaceful possession as well as enjoyment of suit property. Drawing attention to the order passed in the judgment Mr. Basu points out that direction was for both parties to maintain status quo. His submission is that status quo was not determined but an equivocal order made. This is against law declared by Supreme Court in **Kishore Kumar Khaitan & anr. – Versus – Praveen Kumar Singh**, reported in **(2006) 2 SCC 312**, where, in paragraph 5,

Supreme Court said, inter alia, simply directing the parties to maintain status quo without indicating what the status quo was, is not an order that should be passed at the initial stage of a litigation, specially when one Court had found no reason to grant an ex parte order of injunction and the appellate Court was dealing with only the limited question whether an ad interim order of injunction should or should not have been granted by the trial Court.

Mr. Bhattacharyya, learned advocate appears on behalf of opposite parties and does not dispute the submission regarding appellate Court not having determined status quo. It is his submission that his clients are in possession.

Impugned order is clearly illegal. It is set aside. Lower appellate Court is directed to expeditiously hear the appeal and dispose of the same within three weeks from date. Petitioners will obtain and communicate this order to said Court.

Mr. Basu's submission is recorded that there is vacant area in suit property, which requires fencing. His clients offer to fence vacant area so that further complications do not arise during the pendency of the suit. His clients, in the alternative, will accept opposite parties fencing the vacant area on the area being determined, all without prejudice. In event these submissions are made before lower appellate Court, it

shall deal with the same.

The revision petition is disposed of.

(*Arindam Sinha, J.*)