

06.10.2020
Item No. 05/SL
Ct. No.19
PG

**C.O. 1254 of 2020
(Via Video Conference)
Amlan Chowdhury & Anr.
Vs.
Amit Guha Roy**

Mr. Srijib Chakraborty
Mr. Pankaj Agarwal
Mr. Avirup Mondal
Ms. Paramita Maityfor petitioners

Mr. Probal Kr. Mukherjee, Sr. Adv.
Mr. Animesh Paul...for the opposite party

This petition is directed against order no. 5 dated 21st September, 2020 made by District Judge at Howrah in Misc. Case 47 of 2020. The application was for police help for implementing interim measure obtained by petitioners under section 9 of Arbitration and Conciliation Act, 1996.

Mr. Chakraborty, learned advocate appears on behalf of petitioners and submits, his clients are running a bar-cum-restaurant in the property. There is arbitration agreement between his clients and opposite party. Contemplating arbitration, the arbitration Court was moved for interim measure. He relies on order dated 10th September, 2020 made by said Court on his clients' petition for interim measure. He demonstrates that ad-interim order was made on *prima facie* satisfaction of his clients'

contention of being in possession and therefore, requiring injunction. However, the direction to maintain *status quo* should not be misinterpreted or given meaning that there has not been *prima facie* satisfaction obtained of his clients' possession. As such, refusal to pass further order in implementing interim measure already directed is an act of said Court, which is illegal. Section 9 provides wide power including the power to implement.

Mr. Mukherjee, learned senior advocate appears on behalf of opposite party. He submits, at the first instance of having had notice, his client put in objection. He draws attention to paragraph 8 in the objection filed by his client against the section 9 petition. There is clear averment of denial regarding petitioners' allegation of possession. As such, when the arbitration Court was confronted with conflicting claims, without determination of the same, the Court refused to pass any further order and such refusal does not warrant interference.

Since interim measure directed by order dated 10th September, 2020 has use of the expression *status quo*, whereafter opposite party has denied petitioners' possession, such a situation needs adjudication and determination, at least on *prima facie* basis for the Court to pass restraint order.

Petitioners must expeditiously seek such adjudication in the manner they are advised. Mr. Chakraborty wants direction upon arbitration Court to act expeditiously on petitioners' approach. Courts are there to come to aid of litigants. Nothing further need be said.

With above observations, this revision petition is disposed of.

(Arindam Sinha, J.)