

16.10.2020

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C.O. 1273 of 2020

Tapas Kumar Bhowmik

Vs.

Manas Kumar Bhowmik

Mr. Soumik Ganguly

... For petitioner.

By this revision petition petitioner/plaintiff seeks direction upon trial court for expeditious hearing of the suit, ex parte.

Mr. Ganguly, learned advocate appears on behalf of petitioner and draws attention to order dated 13th March, 2020 passed by Civil Judge (Junior Division), 6th Court, Howrah directing the suit to be fixed for ex parte hearing on 16th April, 2020. He then refers to order dated 9th September, 2020, by which ad interim injunction was refused and direction for service made. He submits, there be direction for expeditious hearing for both – the suit as well as the injunction application.

This Court has power of superintendence over the trial Court. Such power includes regulating the practice and procedure of that court. The question is whether the procedure adopted needs to be regulated.

It appears the trial Court was satisfied on 13th March, 2020 that the suit should be heard ex parte as the defendant had not entered appearance. In September, 2020, plaintiff moved for ad interim injunction. Order dated 9th September, 2020 speaks of Court having

perused photocopies of documents to find it improper to allow the injunction without hearing defendant. Hence, there was direction for notice and for defendant to show cause within ten days from receipt of the notice as to why the temporary injunction order shall not be allowed. 20th October, 2020 was fixed for service return and injunction hearing, written objection, if any, in the meantime.

Above referred orders dated 13th March, 2020, of posting suit for ex parte hearing and subsequent order dated 9th September, 2020 dealing with the injunction application, were both on petitioner having moved the Court. Defendant was not present on either day. On query from Court Mr. Ganguly submits, on 16th April, 2020 and thereafter, the suit could not be proceeded with because of lockdown. It appears, when functioning of the Court resumed, petitioner pressed his injunction application, instead of pressing for ex parte hearing of suit. As such, in the circumstances, this Court does not find any material irregularity in procedure adopted by the trial Court.

The trial Court is requested to deal with first, the injunction application, on satisfying itself about service and thereafter the suit.

The petition is disposed of.

(Arindam Sinha, J.)