

Ct. 05
Item No.17
04.12.2020
(suvendu)

CO 1289 OF 2020

Smt. Bela Rani Ghosh & Ors.
Vs.
Banani Ghosh & Ors.

Mr. Sourav Bhattacharya
Mr. Atanu Chakraborty
.....for the Petitioners

The petitioners are aggrieved by an order dated 29th June, 2020 passed by the learned Civil Judge (Senior Division) at Uluberia, Howrah by which an application for local inspection filed by the plaintiff/opposite party was allowed and an Advocate Commissioner was appointed for conducting local inspection in respect of the schedule suit property. The petitioners are the defendants in the suit filed by the plaintiff/opposite party.

Learned counsel appearing for the petitioners places a letter of the Advocate Commissioner dated 18th August, 2020 addressed to the concerned parties from which the petitioners came to know about the impugned order for the first time. Counsel submits that an interim order of injunction obtained by the plaintiff/opposite party was vacated on 10th May, 2019 which has been recorded in an order

dated 11th March, 2020. The order of 11th March, 2020 in fact recorded that the prayer for extending ad interim injunction should be rejected as the said order had previously been vacated. Counsel also submits that the application for local inspection was allowed by the interim order on the basis that the plaintiff/opposite party continued to enjoy an interim order of injunction.

On perusing the impugned order dated 29th June, 2020, this Court finds that the learned Judge has noted that the petitioners had not been served with the application for local inspection. It is also clear from the impugned order that the learned court below proceeded on the basis that there exists an order of injunction in favour of the opposite parties which has been violated by the petitioners. Since it is clear from the records that the interim order of injunction which had been passed in favour of the plaintiff had been vacated on 10th May, 2019 and had not been restored since then and the fact of such vacating has also been recorded in the order of 11th March, 2020, this Court deems it fit to allow C.O. 1289 of 2020 by setting aside the impugned order dated 29th June, 2020 passed by the learned Civil Judge(Senior Division), Uluberia, Howrah in Misc. Case No. 37 of 2018.

The Application is disposed of terms of the
above.

(Moushumi Bhattacharya, J.)