

25.11.2020
S/L - 1
(PP)

C.O. 1304 of 2020

Srimatya Manorama Dey
Vs.
Smt. Arati Maishal

Mr. Amit Baran Dash

....for the petitioner.

This revisional application is directed against an ad interim order dated 26th August, 2020 passed in Misc. Appeal No.6 of 2020 now pending before the learned Civil Judge (Senior Division), 2nd Court, Contai.

The petitioner says that in an application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure made by the petitioner in her suit, an ad interim order of injunction was passed on 23rd June, 2020. The opposite party, being the defendant in the suit, preferred the above Misc. appeal and obtained a stay on 26th August, 2020. The petitioner was not given a proper opportunity to represent when such order was passed. The petitioner wants the ad interim order passed by the First Appellate Court in Misc. Appeal No.6 of 2020 dated 26th August, 2020 to be set aside.

Setting aside of the order impugned at this stage will not only further delay the proceeding but also cause grave injustice to the opposite party if she is

not afforded an opportunity of hearing. It will also amount to usurping the jurisdiction of the First Appellate Court by this Court when the appeal is still pending.

Without going into the merits of the matter, I think justice will be sub-served if the First Appellate Court that is Civil Judge (Senior Division), 2nd Court, Contai or in his absence, the Judge-in-Charge be directed to hear out the appeal as expeditiously as possible but not later than 31st January, 2021.

It is made clear that the First Appellate Court shall not grant unnecessary adjournments to either of the parties.

The petitioner shall file a server copy of the instant order in the First Appellate Court to bring to its notice the direction passed herein.

All points taken in this revisional application are kept open and the petitioner shall be entitled to agitate the same before the First Appellate Court.

C.O. 1304 of 2020 is accordingly disposed of without any order as to costs.

(Arindam Mukherjee, J.)