

18.11.2020

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**C.O. 1362 of 2020
(Via Video Conference)**

Smt. Namita Devi @ Shaw

Vs.

Laltu Ghorui & Ors.

Mr. Animeh Paul
Ms. Fatima Hassan
... For petitioner.

Mr. Paul, learned advocate appears on behalf of petitioner and moves this petition under article 227 of the Constitution of India.

He draws attention to order dated 28th September, 2020, made in suit, where his client is plaintiff. It appears from said order that suit Court found plaintiff has 'A' schedule property while defendants have 'B' and 'C' schedule properties. Said Court found fit to direct both parties to maintain status quo as to nature, character and possession of 'A' and 'B' schedule properties, as on that day till 10th December, 2020. He submits, defendants are violating the order, which caused his client to file a petition under section 151 of Code of Civil Procedure, before the Court. By order no. 4 dated 16th October, 2020 made by court of 4th Civil Judge (Junior Division), Howrah in Title Suit no. 792 of 2020 (Smt. Namita Debi @ Shaw vs. Laltu Ghorui & Ors.), said Court posted the petition to 10th December, 2020.

The order of injunction was issued on 28th September, 2020 and made operative till 10th December,

2020. Petitioner complains that there has been violation in the meantime. By posting the petition to 10th December, 2020, suit Court has acted with material irregularity inasmuch as remedy regarding violation has been denied without granting opportunity to petitioner to prove the contention of violation. It appears that suit Court has presumed compliance.

Court of Civil Judge (Junior Division), 4th Court, Howrah will take up the petition made under section 151 of the Code in Title Suit no. 792 of 2020 and hear it to pass order thereon by 27th November, 2020. Petitioner will obtain server copy of this order and produce it before said Court, for the Court to list the petition and comply with this direction.

This petition has been dealt with on not requiring petitioner to serve as this Court has not touched upon the dispute between the parties.

The petition is disposed of.

(Arindam Sinha, J.)