

S/L
Item No. 10
20.11.2020
(Video Conference)
jb/rc

C.O.No. 1384 of 2020
Sk. Ramij Raja
-Vs-
M/s S. Raj Construction Pvt. Ltd.

Mr. Nilanjan Bhattacharjee

...for the petitioner.

Mr. Debjit Mukherjee

...for the opposite party.

This revisional application is filed challenging the refusal of the lower appellate court to grant an order of stay pending an appeal against an order of temporary injunction issued by the Trial Court in a Title Suit filed in 2018.

Heard learned counsel appearing on behalf of the petitioner as also on behalf of the opposite party.

It appears that the parties have certain transactions relating to real-estate development or builder's agreement. There is a dispute between the parties as to whether the builders agreement has been duly stamped. The learned Trial Court impounded the document and sent it to the jurisdictional Collector for determination of the stamp duty leviable on the document. Pending final consideration of that, the learned Trial Court grant an order of temporary injunction. That was appealed against before the lower

appeallate court. That appeal is pending as Misc. Appeal No. 70 of 2020 before the learned District Judge, Howrah. In that appeal, an application was taken out for stay of the order of temporary injunction issued by the learned Trial Court. The District Judge has refused to grant any interim order of stay pending Misc. Appeal No. 70 of 2020.

When the issue is regarding the admissibility of a document and its impounding and determination of stamp duty leviable on it, it will not be appropriate for the visitorial or revisional jurisdiction of this Court being extended as sought for by the petitioner. Also, such an issue has, rightly, not been deliberated upon finally by the learned District Judge while considering the interlocutory application for stay pending the appeal instituted before that Court.

In view of the aforesaid, I decline to interfere with the impugned order. It is open to the learned District Court, Howrah to consider the appeal expeditiously. It is also necessary to direct the jurisdictional Collector to send up the report to the Court concerned without delay. The learned District Judge may consider issuing such direction. It is also submitted that there is some connected appeal pending before the District Court. Those matters can be pointed out before the learned District Judge.

I am sure that the learned District Judge will make earnest efforts to resolve the issue as expeditiously as possible.

With the above observations and directions this revisional application being C.O.No. 1384 of 2020 is disposed of.

(Thottathil B. Radhakrishnan, CJ.)