

10.11.2020
Vacation Bench
Item No.04
(J.K.S & S.M)

(Via Video Conference)

C.O. 1397 of 2020

**Dr. Soumitra Kumar
-Vs-
Cardiological Society of India & Ors.**

Mr. Soumya Majumdar,
Mr. Sumanta Biswas,
Mr. Yashovardhan Kochar,
Mr. Bikash Shaw,
.... For the petitioner.

Mr. Abhrajit Mitra,
Mr. Chayan Gupta,
Mr. Sandip Dasgupta,
Mr. Ayan De,
.... For the Opposite Parties.

Vakalatnama filed on behalf of the opposite parties is kept with the record.

The plaintiff in a suit for declaration and permanent injunction is the petitioner of the present application under Article 227 of the Constitution of India.

The plaintiff complains that he has filed an application under Section 151 of the Code of Civil Procedure on September 22, 2020 for an immediate order on the said application, but the learned Trial Judge has fixed the hearing of the said application on December 1, 2020.

Mr. Soumya Majumdar, learned Counsel appearing on behalf of the petitioner submits that the petitioner alleging violation of the order of injunction passed in the suit has filed an application under Order XXXIX Rule 2A of the Code of Civil Procedure, registered as

Miscellaneous Case No. 25 of 2020 before the learned Trial Judge and outcome of the said application under Section 151 of the Code since has a direct bearing on the said misc. case the said application is required to be heard along with the said misc. case.

Mr. Abhrajit Mitra, learned Senior Counsel appearing on behalf of the defendants/opposite parties does not object to the said prayer of Mr. Majumdar.

This Court is informed that the hearing of the said misc. case has been fixed before the learned Trial Judge on November 18, 2020.

C.O. 1397 of 2020 is disposed of by requesting the 2nd Court of learned Civil Judge(Junior Division) at Sealdah to take up the hearing of the application filed by the petitioners under Section 151 of the Code on September 22, 2020 on the date fixed for hearing of the Miscellaneous Case No. 25 of 2020 and to make all endeavor to dispose of the said application expeditiously.

The defendants are at liberty to use an affidavit-in-opposition to the said application under Section 151 of the Code.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance of all requisite formalities.

(Biswajit Basu, J.)