

09.12.2020
Court No. 19
Item No. 18
CP

C.O. 1509 of 2020

Md. Suleman Ansari & ors.
vs.
Md. Jalaluddin

Mr. Tarak Nath Halder
Mr. Sagnik Chatterjee

....for the petitioners.

Mr. Syamal Kr. Das
Ms. Smita Pal

.....for the opposite parties.

This application is filed challenging an order dated September 25, 2020, passed in Title Suit No. 118 of 2020 by the learned Civil Judge (Junior Division), Second Court at Barrackpore. The learned court below rejected an application filed under Section 151 of the Code of Civil Procedure, wherein the defendants in the suit/petitioners prayed for an order of repairing the suit property in the teeth of an order of injunction. The learned court below came to the conclusion that the application under Section 151 was vague without proper description of the nature of damage and the kind of repair including the number of tile sheds which have been damaged and which need to be repaired. The learned court

below refused to allow such prayer without proper specifications.

The learned advocate for the caveator submits that there are no tile sheds in the area and, as such, the question of damaged tiles and need for repair, does not arise.

The learned advocate for the petitioner refuted this submission by saying that due to the cyclone Amphan the entire tile shed has been damaged.

However, nothing is on record to show that the State authorities have been informed of this. In any event, these are issues not to be decided in this application.

I do not find any reason to interfere with the order of the learned court below.

I have perused the application under Section 151 of the Code of Civil Procedure and I am in agreement with the learned court below who has rightly exercised his discretion. However, this rejection of this revisional application will not prevent the petitioners from filing a proper application with all particulars seeking repair and the learned court below after affording an opportunity of hearing to all parties shall pass an order, exclusively on its own merits and in accordance with law on the basis of the records, pleadings and submissions made before the court without being influenced by any observations made herein.

The revisional application is, thus, disposed of.
There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible subject to compliance of all usual formalities.

(Shampa Sarkar, J.)