

S/L 25
09.12.2020
Court. No. 19
GB

C.O. 1519 of 2020

South Eastern Railwaysmen's Congress

Vs.

Naveen Kumar Gulia & Ors.

(Through Video Conference)

*Mr. Tanmoy Mukherjee,
Mr. Amal Kumar Saha,
Mr. Iresh Paul.*

...for the Petitioner.

*Mr. Rajdeep Bhattacharya,
Ms. Sevanti Roy.*

...for Opposite Party No.1.

The petitioner is one of the defendants in Title Suit No.330 of 2020, which is pending before the learned Civil Judge, Senior Division, 3rd Court at Howrah.

Aggrieved by an *ad interim* order of injunction passed by the learned trial court, Misc. Appeal No.87 of 2020 has been filed and the same is now pending before the learned Additional District Judge, Fast Track 3rd Court, Howrah. The petitioner is aggrieved because the learned lower appellate court did not hear the application for stay on the point of grant of ad-interim stay.

The petitioner submits that the petitioner is the party, actually affected although the petitioner has been impleaded as a proforma defendant. It is submitted that the learned court below should be directed to dispose of the stay application filed in connection with Misc. Appeal No.87 of 2020 expeditiously.

It appears that a date has been fixed for hearing of the maintainability application filed by the plaintiff.

Under such circumstances no useful purpose will be served in keeping the revisional application pending and in directing the learned court below to decide the stay application. It is submitted that written objection to the stay application has also been filed.

The petitioner is directed to serve copies of the Misc. appeal and connected application upon the opposite party nos. 2 to 7, who are the principal defendants. Service of the notice of appeal upon the opposite party Nos. 8 and 9 is dispensed with as the said opposite parties have been impleaded in the suit as proforma defendants and the order impugned before the lower appellate court is an order passed in favour of the plaintiff and it is only the plaintiff who is accordingly affected by any order, that is passed in misc. appeal. A date has been fixed tomorrow by the learned court below. The learned court is directed to hear out the Misc. appeal along with all pending applications within January 31, 2021 on their own merits and in accordance with law.

The revisional application is disposed of.

There will be, however, no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)