

DINESH KUMAR AGARWAL & ANR. VS. HSS
AND SONS VENTURES PVT. LTD. & ORS.

Mr. Saptangshu Basu..Sr.Adv.
Mr. Suhrid Sur
..for the petitioners

I do not find any reason to interfere with the order passed by the learned Additional District Judge, Alipore in Misc. Appeal No. 4 of 2020 dated November 27, 2020, by which the learned lower appellate court affirmed the order dated October 21, 2020 passed by the learned Civil Judge, Junior Division, Alipurduar, in Title Suit No.73 of 2020, thereby upholding the ad-interim order passed by the learned trial judge.

The petitioners are aggrieved by an ad-interim order of injunction passed ex-parte by the learned Trial Court and affirmed by the learned lower appellate Court on the ground that the said

order did not disclose any satisfaction of the Court with regard to the prima facie case, the balance of convenience and inconvenience and irreparable loss and injury.

According to Mr. Basu, learned senior Advocate appearing on behalf of the petitioners, the learned Courts below should have recorded their satisfaction as to why under the facts and circumstances an urgent ad-interim order of injunction ought to have been passed ex parte.

I have gone through the order impugned. I do not find any necessity to entertain this revisional application as the learned lower appellate Court fixed the matter on January 7, 2021 and the learned trial judge has fixed the matter for hearing on January 12, 2021.

Mr. Basu submits that his client does not want to proceed with the Misc. appeal and he wants to withdraw the same. However, no order can be

passed in this proceeding. The petitioners are at liberty to withdraw their appeal and contest the proceeding before the learned Trial Judge by filing an appropriate written objection to the application for temporary injunction.

If the petitioners appear before the learned Trial Judge on the next date fixed after having withdrawn their appeal, the learned Trial Judge will hear out the application for injunction on its own merits after hearing both the parties and dispose of the same expeditiously preferably within a period of one month.

This Court has not made any observations on the merits of the claim of the parties and the learned Court below will be at liberty to proceed with the matter in accordance with law.

The petitioner is directed to serve a copy of the revisional application along with a server copy of this order upon the opposite parties within a week

from date.

This revisional application is disposed of.

There will be however no order as to costs.

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

(Shampa Sarkar,J.)

