

21-01-2020
Court No.3
(AJ/SK)
SI/04.

**CIRCUIT BENCH OF
CALCUTTA HIGH COURT
AT JALPAIGURI
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

C.O. 4 OF 2020

**Sri Ramnath Prasad
Vs.
Sri Sawarmal Agarwal & Ors.**

Mr. Nripen Das,
Mr. Debanjan Das.
. . .For the Petitioner.

Mr. Partha Sarathi Deb Barman,
Mr. Partha Choudhury,
Mr. Anirban Banerjee.
.....For the opposite parties.

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

The defendant is complaining that he has been forcibly ousted from the suit property by the plaintiff and he has filed an application for mandatory injunction to get back the possession of the suit property which has been kept pending for a long time thereby causing serious prejudice to him.

On the other hand, Mr. Deb Barman, learned advocate appearing on behalf of the plaintiff submits that an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure filed by the plaintiff is also pending.

The said pending applications by their nature demands expeditious disposal.

It is submitted on behalf of the parties that the application for mandatory injunction is not ready for disposal as the parties have not exchanged their affidavits on the said application.

Leave, therefore, is granted to the plaintiff to file affidavit-in-opposition to the said application for mandatory injunction by two weeks from date; reply thereto, if any, be filed by the defendant within one week thereafter.

In respect of the application filed by the plaintiff under Order XXXIX Rules 1 and 2 of the Code if the affidavits to the said application have not yet been filed by the parties, the same are also be exchanged within the aforementioned time.

The learned Civil Judge (Junior Division-I), Jalpaiguri before whom the said applications are pending in connection with Title Suit No. 186 of 2019 is requested to dispose of the said applications expeditiously preferably within a period of six weeks from the date of communication of this order and to adhere to the time limit fixed by this order for disposal of the said applications, the learned Trial Judge shall not grant any unnecessary adjournment to either of the parties.

With the above, C.O. 4 of 2020 is disposed of.

No order as to costs.

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

(Biswajit Basu, J.)

