

24-01-2020
Court No.3
(Susanta)
SI/01.

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

C.O. 68 OF 2019

**Sri Sahankar Dey
Vs.
Smt. Alpana Ghosh**

Mr. Milindo Paul,
Mr. N. Paul.

. . .For the Petitioner.

Mr. Pabitra Pal Chowdhury.

. . . For the Opposite Party

The revisional application Under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for declaration.

The plaintiff in the suit, inter alia, is praying for a decree declaring that the defendant has no right to construct and alter the tenanted premises without the prior permission of the plaintiff and his co-sharer.

In such a suit the plaintiff filed an application under order XXXIX Rules 1 & 2 of the Code of Civil Procedure which was allowed by the learned Trial Judge vide Order dated August 8, 2014 thereby restraining the defendant from making any construction or changing the nature and character of the suit property without prior permission of the plaintiff till the disposal of the suit.

The defendant appealed from the said order in Miscellaneous Appeal No. 25(10) of 2014.

The appeal Court below by the judgment and order dated January 17, 2019 which is under challenge in the present application under Article 227 of the Constitution of India set aside the order of the learned Trial Judge and remanded the application for injunction to the Court below for decision afresh.

The impugned order was passed on January 17, 2019, thereafter substantial time has elapsed, this Court feels that justice will be subserved if the learned Trial Judge is requested to dispose of the said application for injunction expeditiously.

Accordingly C.O 68 of 2019 is disposed of by requesting the Civil Judge (Junior Division), Siliguri to decide the application under order XXXIX Rules 1 & 2 of the Code of Civil Procedure filed by the plaintiff in Title Suit no. 209 of 2012 expeditiously preferably within a period of six weeks from the date of communication of this order if the said application is otherwise ready for disposal.

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 with all requisite formalities.

(Biswajit Basu, J.)

