

S/L 18
11.01.2021
Court. No. 19
GB

C.O. 14 of 2021

Pradip Das & Anr.
Vs.
Suravi Sarkar & Ors.

(Through Video Conference)

Mr. Kushal Chatterjee.

...for the Petitioners.

This revisional application has been filed by the plaintiffs in Title Suit No.317 of 2020, being aggrieved by the order dated December 10, 2020, passed by the learned Civil Judge (Junior Division), 1st Court at Uluberia Howrah in Misc. Case No.22 of 2020.

Misc. Case No.22 of 2020 is an application filed for a mandatory order upon the opposite parties to open the padlock fixed on the gate of the common passage in terms of the order of ad interim injunction passed by the learned court below. The learned court below observed in the order impugned that an application under Section 151 of the Code of Civil Procedure could not be taken up without allowing the defendant no.7, who had entered appearance in the suit to contest the same.

From the ad interim order of injunction it appears that the learned court below was satisfied with the prima facie case of the petitioners and had restrained the defendants by allowing the ad interim prayer as made in the

application under Order 39, Rules 1 and 2 of the Code of Civil Procedure. Thereafter an application under Section 151 of the Code of Civil Procedure was filed for implementation of the order with a mandatory direction upon the opposite parties to break open the padlock.

I do not find any reason to interfere with the order impugned at this stage, inasmuch as, the learned court was justified in observing that the opposite parties were required to be heard before an order of such nature could be passed. However, the nature of the allegations made by the petitioners in the application under Section 151 of the Code of Civil Procedure are serious and as such the learned court below is directed to proceed with the said application being Misc. Case No.22 of 2020 expeditiously and dispose of the same preferably within a month from the next date fixed, upon allowing all the parties to contest the same.

The revisional application is, thus, dismissed.

The petitioners are at liberty to approach the learned court below for bringing forward the date of hearing of the Misc. case provided all the parties have been served with the copy of the summons and the applications.

The petitioners are directed to serve copies of this revisional application along with server copy of this order upon all the opposite parties, so that the opposite parties are in a position to contest the proceeding in the learned court below.

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.)