

S/L 19
13.01.2021
Court. No. 19
GB

C.O. 53 of 2021

Sri Rabi Shankar Dalai
Vs.
Sri Debabrata Sahoo

(Through Video Conference)

Mr. Ashim Kumar Routh.

...for the Petitioner.

The petitioner is the plaintiff in Title Suit No.274 of 2020, pending before the learned Civil Judge (Junior Division), 1st Court at Contai, Purba Medinipur.

The suit was filed in 2020 praying for an ad interim order of injunction which was allowed by the learned court below on October 15, 2020. By the said order, the defendant was restrained from changing the nature and character of the Ka schedule property by making any construction till November 20, 2020. The said ad interim order has been extended and the same is continuing.

On November 20, 2020 the petitioner filed an application under Section 151 of the Code of Civil Procedure praying for necessary police protection as the defendant was allegedly violating the ad interim order of injunction dated October 15, 2020. The said application has been kept pending since November 2020. The petitioner also filed an application under Order 39 Rule 2A of the Code of Civil Procedure.

It is submitted that the learned court below may be directed to dispose of the application under Section 151 of the Code of Civil Procedure as expeditiously as possible so that the violation could be stopped by interference of the police at the earliest as it was the duty of the Court to see that the ad interim order of injunction should be implemented.

It is informed that the next date fixed is tomorrow.

Without going into the merits of the claim of the petitioner with regard to the alleged violation, this revisional application is disposed of with a direction upon the learned court below to dispose of the application under Section 151 of the Code of Civil Procedure as expeditiously as possible preferably within a period of one month from the next date fixed upon allowing the defendant/opposite party to contest the same by filing appropriate written objection at the earliest. If the opposite party fails to file the written objection to the application within the date fixed by the learned court below, the learned court below will proceed in accordance with law.

The learned court below will decide the matter independently and without being influenced by any observations made hereinabove. This order shall not be construed as an observation on the maintainability of the application under Section 151 of the CPC. All points are left open for the learned Court to decide.

The petitioner is directed to serve a copy of this revisional application along with a server of this order upon the opposite party as also the learned advocate appearing on behalf of the opposite party in the learned court below. The learned court below as also the parties are directed to act on the basis of the server copy of this order.

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.)