

20.01.2021
Court No. 19
Item No.12
CP

C.O. 89 of 2021

Devendra Kumar Mishra
vs.
Rajendra Kumar Mishra & anr.
(via video conference)

Mr. Arijit Bardhan
Ms. Aiman Abdullah

....for the petitioner.

Mr. Tapas Kr. Bhattacharya
Mr. Monish Banerjee

...for the respondent.

This revisional application is not maintainable as the order impugned dated December 23, 2020, passed in Title Suit No. 360 of 2020 by the learned Civil Judge (Junior Division), 1st Court at Sealdah, South 24- Parganas is an ad-interim order of injunction which is an appealable order.

It is the contention of the learned advocate for the petitioner that there is error apparent on the face of record and, as such, the revisional application is maintainable. The error apparent as pointed out by the learned advocate for the petitioner is that the learned court below has not fixed a date upto which the ad-interim order of injunction would be operative. He further submits that the suit is not maintainable as the suit is a thika property.

As the order is an appealable order and if the petitioner is aggrieved by the ad-interim order on the ground that the plaintiff did not have a prima facie case and also on the ground that the ad-interim order did not indicate the date upto which the same would be operative, the petitioner was always at liberty to prefer an appeal or approach the learned court below by filing appropriate application.

This revisional application is dismissed. There shall be no order as to costs.

Later, the petitioner prays that the learned court below may be directed to dispose of the application for injunction expeditiously. The learned court below shall dispose of the application for temporary injunction as expeditiously as possible, preferably within a period of two months from the date of communication of this order upon affording an opportunity to all parties to contest the same.

This court has not gone into the merits of the claims of the petitioner and the learned court below is left to decide the issues independently.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible subject to compliance of all usual formalities.

(Shampa Sarkar, J.)