

**P.M. COLD STORAGE PRIVATE LIMITED &
ANR.. VS. MONOTRONE LEASING PVT. LTD. & ORS.**

**Mr. Jishnu Chowdhury
Mr. Chayan Gupta
Mr. Rittick Chowdhury
..for the petitioners**

This revisional application has been filed by the plaintiffs in an interpleader suit being Title Suit No. 1151 of 2019, pending before the learned Judge, XII Bench, City Civil Court, Calcutta.

The petitioners are aggrieved by an order passed in an application under Section 151 of the Code of Civil Procedure. The petitioners filed the said application for an order of injunction restraining the defendants from proceeding against the petitioners in any fora.

The learned Court below upon appreciation of the merit rejected the prayer for injunction made in the said application. In my opinion, the revisional application cannot be entertained as the order impugned, in effect, is and order of rejection of a prayer for injunction.

Mr. Chowdhury submits that the provisions of Order 35 Rule 4 (1)(a) provides how the learned Court ought to have proceeded. Mr. Chowdhury further points

out to the provisions of Order 35 Rule 3 of the Code of Civil Procedure in support of his claim for an injunction. Refusal of a prayer for injunction being an appealable order cannot be challenged in this proceeding. Mr. Chowdhury then prays for a direction upon the learned court to dispose of the suit expeditiously by following the procedure laid down under Order 35 Rules 3 & 4.

Under such circumstances, in my view, in view of the pending litigation against the petitioners before the N.C.L.T., the prayer of Mr. Chowdhury to the extent that the learned Civil Court be directed to expedite the hearing of the suit along with all pending applications under Order 7 Rule 11 of the Code of Civil Procedure is justified. The prayer is innocuous and will not cause any prejudice to either of the parties.

The plaintiffs are always at liberty to file appropriate applications as may be admissible under the provision of Order 35 of the Code of Civil Procedure.

The learned Court below is directed to dispose of Title Suit No. 1151 of 2019 along with all pending applications including the one under Order 7 Rule 11 of the Code of Civil Procedure as expeditiously as possible preferably within a period of two months from the next date fixed.

The learned Court below will afford all opportunity to the contesting parties and put forward

their case. The written objection to the application under Order 7 Rule 15 of the Code of Civil Procedure be filed by the petitioners, if not already filed, within 10 days.

This Court has not expressed any opinion with regard to the maintainability of the suit or the merits of the claim of the petitioners.

The learned Court below will proceed independently and in accordance with law without being influenced by any observations made hereinabove.

The petitioners are directed to serve copies of the revisional application along with a server copy of this order upon the opposite parties within a week from date.

This revisional application is disposed of.

There will be however no order as to costs.

Urgent photostat certified copy of this order be given to the parties on priority basis, if the same is applied for.

(Shampa Sarkar,J.)

