

S/L 10
29.01.2021
Court. No. 19
GB

C.O. 169 of 2021

Smt. Anima Rani Das & Ors.
Vs.
Sri Biswajit Das & Anr.

(Through Video Conference)

Mr. Siva Prasad Ghosh.

...for the Petitioners.

This revisional application has been filed by the defendant nos.1 to 3 in Title Suit No.363 of 2019 being aggrieved by an order dated January 13, 2021, passed by the learned Civil Judge, Junior Division (In-charge), 2nd Court, Barrackpore.

The petitioner is aggrieved because the learned court below directed implementation of the order of ad interim injunction dated September 19, 2019 through police help. According to the petitioner, the petitioner is the sole owner of the property in question and is also residing in the said property. The ad interim order of injunction that was passed amounted to allowing the entire reliefs in the suit. Consequently the petitioner filed an application under Order 39, Rule 4 of the Code of Civil Procedure for variation, vacation and/or modification of the ad interim order of injunction. During the pendency of the said application, the opposite party no.1 filed an application for police help under Section 151 of the Code of Civil Procedure for implementation of the order of ad interim injunction.

It is an admitted fact that the petitioner no.1 is the mother and petitioner nos. 2 and 3 are the siblings of the opposite party no.1. It is also an admitted fact that the opposite party no.1 was running a business from the said premises. The electric connection, trade licence are in the name of the opposite party no.1 and on the basis of such documents an ad interim order was passed which was not challenged by the petitioners in an appeal but was challenged before the learned court below by filing an application under Order 39, Rule 4 of the Code of Civil Procedure. In the meantime, it was alleged by the opposite party no.1 that the petitioner was trying to disturb the day to day running of the business of the opposite party no.1 from the said premises.

Under such circumstances, an application for police help was filed by the opposite party no.1. Upon contested hearing the learned court below allowed the said application on the ground that it was a rule of public policy that any order of injunction should be obeyed by the parties and it was the duty of the court to ensure that the orders passed by the said court should be implemented. The learned court below exercised its discretion and on considering the relevant decisions of the Apex Court in this regard, came to the conclusion that in the circumstances involved in the suit, implementation of the order by police help was necessary.

I do not see any reason to interfere with the order impugned as the learned court below has provided sufficient

reasons as to why the learned court below thought it fit to grant an order of police help in the circumstances pleaded in the application filed by the opposite party no.1. I do not find any error of jurisdiction.

The learned advocate for the petitioners prays that the learned court below should be directed to hear out the application for temporary injunction along with the application under Order 39, Rule 4 of the Code of Civil Procedure expeditiously. This is an innocuous prayer. The learned court below is directed to dispose of the application for temporary injunction expeditiously by treating the application under Order 39, Rule 4 of the Code of Civil Procedure as an objection to the same within a period of one month from the next date fixed.

It is made clear that this Court has not gone into the merits of the facts and circumstances of the case and the learned court below shall proceed independently and in accordance with law. No unnecessary adjournments should be granted.

Petitioner is directed to serve copies of this revisional application along with a server copy of this order upon the opposite party no.1.

The revisional application is disposed of without calling for any interference with the order impugned.

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.)