

04.02.2021
Court No. 19
Item No.13
CP

C.O. 225 of 2021

Smt. Jharna Chowdhury & ors.
vs.
Biman Sen & ors.

Mr. Rabilal Maitra, Sr. Adv.
Mr. Haridas Das
Mr. Ujjal Trivedi
Mr. R. Maitra
Mr. S. Dey

....for the petitioners.

Mr. Rakheswar Dey Sarkar

....for the opposite parties/plaintiffs.

This revisional application has been filed by the defendant Nos. 1 to 5 in Title Suit No. 65 of 2018, being aggrieved by the order dated January 8, 2021, passed by the learned Civil Judge (Senior Division), Sealdah.

The learned court below upon a complete misconception of the orders of this court has passed the order impugned, thereby extending the ad-interim order of injunction till the disposal of the application for temporary injunction. The learned court below has failed to take into consideration the prima facie case, balance of convenience and inconvenience and the irreparable loss and injury while passing such order. Moreover, despite there being an order of this court to dispose of the

application for temporary injunction mandatorily within the time limit fixed by this court, the learned court below acted beyond the scope of the directions of this court and in excess of jurisdiction.

Mr. Dey Sarkar, learned advocate appearing on behalf of the plaintiffs, submits that as the petitioners did not serve all the relied upon documents in the application for temporary injunction, the learned court below had no other alternative but to pass the order impugned.

Mr. Maitra, learned senior advocate for the petitioners, disputes such proposition.

In any event, if the petitioners have failed to submit the documents they wish to rely on, then the presumption will be against them and the learned court below can decide on the merits of the application for injunction by taking note of such laches. The order impugned could not be passed in the fashion that it was done. It is submitted that an application for expunging the name of the deceased plaintiffs is already on record.

Let such application be disposed of within a month from the next date fixed. Upon disposal of the said application, the application for temporary injunction will be disposed of within a month thereafter. The parties shall cooperate with the

learned court and no unnecessary adjournments will be made.

The order impugned is set aside and quashed.

Status quo be maintained with regard to the nature, character and possession of the suit property in question till the disposal of the temporary injunction application.

The revisional application is disposed of. There shall be no order as to costs.

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.)