

16.11.2021
(S/L-21)
Ct.-18
(Susanta)

(Via Video Conference)
C.O. 420 of 2020

Sri Janardan Singh

-Vs-

Biraj Singh & Anr.

Mr. Haradhan Banerjee,

Mr. Amitava Pain,

Mr. Subhrangshu Dutta,

.... For the Petitioner.

Mr. Ayan Banerjee,

Ms. Debasree Dhamali,

... For the Opposite Party.

The plaintiff in a suit for declaration is the petitioner of the present application under Article 227 of the Constitution of India and is directed against order no. 14 dated November 8, 2019 passed by the 1st Court of Learned Civil Judge (Junior Division), Serampore, Hooghly in the said suit being Title Suit No. 540 of 2018.

The learned Trial Judge by the order impugned has dismissed an application filed by the petitioner seeking police assistance for implementation of the said order of injunction.

The learned Trial Judge by the order dated December 24, 2018 passed the following ad interim order of injunction on an application filed by the petitioner under Order XXXIX Rules 1 & 2 of the Code of Civil Procedure:-

“The defendants are restrained from disturbing the peaceful possession of

the plaintiff over the A-1 schedule property and also restrained from dispossessing him therefrom till the next date, i.e., 17.01.2019.

Both the parties are also directed to maintain status quo with regard to the nature and character of the A-3 schedule property in any manner whatsoever till the next date.”

The said ad interim order of injunction was extended from time to time and is still subsisting.

The learned Trial Judge dismissed the said application for police assistance holding that ‘A-1’ schedule property has already been demolished and there is a serious doubt about the identity of the suit property over which the defendants are allegedly carrying on the construction.

The aforesaid doubt is required to be removed before allowing the prayer of the petitioner for police assistance to implement the said ad interim order of injunction and to clear the said doubt, the pending application for injunction is required to be decided first.

The order impugned, for the aforesaid reason, does not call for any interference.

The learned Trial Judge is requested to dispose of the said application for injunction in accordance with law, expeditiously, preferably within two available effective working months of the said Court from the date of communication of this order and in doing so shall not grant any unnecessary adjournment to either of the parties.

It is however made clear that this order will not prevent the petitioner to seek similar relief of police assistance depending upon the outcome of his application for injunction.

C.O. 420 of 2020 is disposed of with the above terms without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)