

S/L 13 & 15
10.02.2021
Court. No. 19
GB

C.O. 258 of 2021
With
C.O. 261 of 2021

Sri Debangshu Mondal
Vs.
Subham Paul & Ors.

(Through Video Conference)

*Ms. S. Bhattacharya Chakraborty,
Mr. Rittick Chowdhury.*

...for the Petitioner.

*Mr. Devajyoti Barman,
Ms. Sanjukta Basu Mallick.*

...for the Opposite Party No.1.

C.O. 258 of 2021 and C.O. 261 of 2021 are taken up analogously as the subject matter of the suits and the parties are same.

These two civil revisions arise out of orders dated December 24, 2020 passed by the learned Civil Judge (Senior Division), 1st Court at Baruipur, District 24 Parganas (South) allowing an application for police help.

C.O.258 of 2021 arises out of Title Suit No.229 of 2018 and C.O. 261 of 2021 arises out of Title Suit No.230 of 2018. Debangshu Mondal is the petitioner. In C.O. 258 of 2021 he is the defendant no.7 and in C.O.261 of 2021 he is the defendant no.17.

The petitioner is aggrieved by the order of police help granted by the learned court below in the respective suits with a direction upon the I.C. Narendrapur P.S. to look into

the matter and see that the order of injunction passed on December 7, 2018 was maintained properly. The ad interim orders were passed in the respective suits directing some of the defendants to maintain status quo in respect of possession, nature and character of the suit property. Alleging violation of the order of status quo, the plaintiffs filed an application for police help. The said application was disposed of with a direction upon the police to file a report upon considering the situation. The report was filed by the police to the extent that a G+4 building was completed and an another floor was being constructed. Thereafter, another application for police help was filed and the defendants, who were directed to maintain status quo with regard to the nature, character and possession of the suit property, had filed an undertaking before the learned court below that no construction would be carried out on the suit properties, namely, Dag Nos.230, 231 and 232 in Mouza – Balia, P.S. Sonarpur, District 24 Parganas (South).

According to Ms. Chakraborty, the order of police help was not clear and it appears that the police have been directed to see that the order of injunction was implemented in respect of the entire project undertaken by the concerned defendants for development of the property. According to her, there has been no construction on Dag Nos. 230, 231 and 232, which are the suit property in the respective suits. Subsequent to the order of ad interim injunction passed by the learned court below, it is further emphasized that the

construction was going on in other portions of the project, which do not form a part of the suit property.

Mr. Barman, learned advocate for the plaintiff/opposite party submits that the project has been going on over the entire area including the suit property. That under the garb of constructing on the areas which were not covered by the suit, the developers were actually constructing on the suit properties. An application for local investigation for demarcation was already pending before the learned court below and once there was an order of status quo, it was the duty of the Court to ensure that the said order was not violated. Hence, the order for police help was rightly passed. Mr. Barman further submits that the Dag numbers in question form a part of the one holding, being holding no.453.

Form the order impugned it appears that the learned court below directed the police to see that the interim order of injunction passed on December 7, 2018 was implemented and the undertaking given was respected. I do not find there is any ambiguity at all. When the original ad interim order of injunction has been restricted to Dag Nos.230, 231 and 232 of the concerned mouza, the police will ensure that no construction on any portion of the said Dag numbers 230, 231 and 232 shall be made. The police may require the parties to identify the said portions if the need arises. The police shall also compare the same with the undertaking given by the petitioner and also compare the same with the

documents, which may be supplied. In any event, the identity of the plots is required to be demarcated in view of the fact situation by a local investigation. The pending application shall be decided expeditiously preferably within a month from the date of communication of this order upon giving an opportunity of hearing to all the parties. The learned court below shall act in accordance with law and on the basis of the report to be submitted by the police and the parties are at liberty to approach the learned court below for appropriate orders thereafter.

The revisional applications are disposed of.

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.)