

12.02.2021
Sl. No. 13
srm

C.O. No. 273 of 2021

Kaji Kamal & Anr.

Vs.

Badruddin Sujat Kaji & Ors.

Mr. Rwitendra Banerjee,
Mr. Sandip Kundu,
Mr. Debdutta Pathak,
Mr. Shibais Chatterjee

...for the Petitioners.

Mr. Aniruddha Bhattacharya

...for the Plaintiff/Opposite Party No.1.

The opposite party No.1/plaintiff is represented.

Service upon the other opposite parties is dispensed with in view of the fact that they were not the persons aggrieved.

This revisional application has been filed by the defendant Nos.1 and 2 in Title Suit No.85 of 2020 pending before the learned Civil Judge (Senior Division), Uluberia, Howrah. The defendant Nos.1 and 2 are aggrieved by the orders impugned dated October 20, 2020 and December 15, 2020 by which an application for police help filed by the plaintiff/opposite party No.1 has been allowed for implementation of the order of ad interim injunction and compliance thereof, pursuant to the allegations of the plaintiff

that the defendant Nos.1 and 2 were flouting and violating the order of ad interim injunction.

Mr. Banerjee, learned Advocate appearing on behalf of the petitioners, submits that the police in overt exercise of its power has shut down the shop room from which the petitioners/defendant Nos.1 and 2 are running their business. He refers to the report prepared by the police in support of such contention.

It appears from the report, that the said shop room, according to the petitioners, was being run by the petitioners but due to dispute over the possession and ownership of the said shop room the police shut it down. However, this report has not yet been considered by the learned trial Judge although it is submitted that the same has been filed. The contentions of Mr. Banerjee with regard to the non-maintainability of the suit against the petitioners and the erroneous grant of ad interim injunction in such a suit, are not to be decided in this proceeding. The petitioners are always at liberty to approach the appropriate forum in this regard.

This Court finds that the learned trial Judge passed the orders impugned upon exercising a discretion on the basis of the allegations made by the plaintiff with regard to the alleged violation of the ad interim order. The learned Court below

directed the police to see that the ad interim order was complied with. When the police acted beyond their jurisdiction, the same should be brought to the notice of the learned Court below by the parties. The opposite parties submit that they are also aggrieved by shutting down of the shop room by the police but it is their positive case that they were running the shop room. However, it is for the learned Court below to take cognizance of such statements and pass necessary orders. The petitioners are at liberty to apply before the learned Court below on the basis of the contentions made in this revisional application and place reliance on the report filed by the police to this effect. Such application should be filed within seven days upon serving an advance copy upon the plaintiff.

These are issues to be decided by the learned Court below on the basis of the records and contentions of the parties. If the application is filed by the petitioners, the same shall be disposed of within seven days thereafter. The written objection to the said application should be filed within three days from the date of service thereof.

This Court has not gone into the merits of the claims and counterclaims of the parties and the learned Court below shall decide the application in accordance with law.

The revisional application is 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.)