

TARUN KUMAR MAITY VS. TARIT KUMAR SAHOO

Mr. Subhas Jana
..for the petitioner
Mr. Sukumar Ghosh
Mr. Sandip Ghosh
Ms. Riya Ghosh
..for the opposite party

This revisional application has been filed by the plaintiff/petitioner in Title Suit No. 225 of 2017, pending before the learned Civil Judge, Junior Division, 1st Court, Tamluk. The petitioner is aggrieved by the order dated November 21, 2020 passed by the learned Court below rejecting the application for police help filed by the learned Advocate Commissioner.

The petitioner is aggrieved as the learned Commissioner faced serious resistance from the defendant at the time of repairing of the ceiling of the shop room by just mending and/or repairing cracks and holes and while removing the accumulated garbage on the said roof.

It is the contention of the petitioner that such repair work was undertaken on the basis of the order passed by this Court in C.O.2854 of 2019. Initially, the petitioner had filed an application for repair work and

also took out the application for local inspection. The learned Advocate Commissioner filed a report before the learned Court below after holding inspection with regard to the points of repair. From the said report, it appears that some of the holes in the ceiling of the suit property exhibited and some garbage had also been stacked on the roof of the suit property. The learned Court below earlier rejected the application for repair work and the petitioner preferred C.O. 2854 of 2019.

C.O. 2854 of 2019 was disposed of by this Court with a direction upon the learned Court below to pass an order appointing a Commissioner, who would inspect the suit property and under whose supervision the repairing work should be undertaken. It was further directed that the repairing work shall be done at the cost of the petitioner and the petitioner shall not claim any equity in respect thereof.

It appears that the learned Commissioner went to supervise such repairing work but was resisted by the defendant and as such he prayed for police help. The application for police help was rejected by the learned Court below. It was the case of the learned Commissioner that the defendant and/or local men/agents had threatened him and as a result of which the repairing work could not be completed.

I have gone through the rival contentions of

the parties.

Mr. Ghosh, learned Advocate for the opposite party/defendant submits that at one point of time the repairing work had been completed and again the petitioner is trying to make further construction in the name of repair by taking advantage of the order of this Court.

However, as it appears that the learned Advocate Commissioner had himself filed a report before the learned Court below that the entire repair work has not been completed, for the ends of justice, this revisional application is disposed of with a direction upon the learned Court below to direct the learned Advocate Commissioner to supervise the remaining repairing work which could not be completed, as alleged. The repairing work shall be limited to the holes in the ceiling of the shop room as would appear in the learned Commissioner's report dated November 21, 2017. The garbage, which is accumulated on the roof shall also be allowed to be removed.

It is made clear that there shall be no resistance from the defendant, if the repair work is done in accordance with this order and the previous order passed by this Court.

The learned Commissioner will also ensure that the repair work is done to the extent, as directed

hereinabove. In case of violation of the order, the defendant shall be at liberty to approach the learned Court below. In case of further resistance by the defendant and/or the local men and agents, the petitioner and the learned Commissioner shall be at liberty to pray for an appropriate order in the learned Court below including an order for police help.

It is made clear that no other repair except as indicated hereinabove shall be allowed and the learned Advocate Commissioner shall file a report after completion of the repair work before the learned Court below.

The order impugned is hereby modified to the above extent.

This revisional application is disposed of.

There will be however no order as to costs.

Urgent photostat certified copy of this order be given to the parties on priority basis, if the same is applied for.

(Shampa Sarkar,J.)