

10.03.2021
Court No. 19
Item No.04
CP

C.O. 559 of 2021

Jayanta Kumar Seth
vs.
Kamrujjaman Mistry & ors.

Mr. Debjit Mukherjee
Mr. Prithwish Kumar Basu
Ms. S. Chatterjee
Mr. K. Bhattaharya

.....for the petitioner.

This revisional application has been filed by the plaintiff in Title Suit No. 563 of 2020, being aggrieved by an order dated February 24, 2021 passed by the learned Civil Judge (Junior Division), 6th Court, Alipore.

By the order impugned, the learned court below rejected an application for police help filed under Section 151 of the CPC. The learned court below was of the view that the application was devoid of any merit and an order for police help could not be granted on the mere asking.

I do not find any reason to interfere with the order impugned for the simple reason that the application for police help does not contain any averment which would satisfy the conscience of the court that the defendants in the suit were actually flouting the ad-interim order passed by the learned court below. The ad-interim order that was passed

was in the nature of a restraint upon the defendants from demolishing the suit property and further restraint from evicting the plaintiff without the due process of law. In the application under Section 151 of the CPC filed by the petitioner, there are no pleadings that the petitioner was sought to be dispossessed by the landlords or that the suit property was being demolished. On the contrary, it has been stated that construction work was going on unauthorisedly. Similar statements have also been made in the letters of the learned advocate addressed to the police authorities. There is nothing on record to be convinced that the defendants have violated the order of ad-interim injunction at this stage.

Thus the revisional application is dismissed.

However, dismissal of this revisional application will not prevent the petitioner/plaintiff from filing an appropriate application at an appropriate stage with better particulars.

If such application is filed, the learned court below shall consider the same in accordance with law on the merits of the application within a week from the date of filing of the same, upon the allowing the opposite parties/defendants to contest the same.

An advance copy of the same application should be served upon the opposite

parties/defendants before the same is filed in the learned court below.

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.)