

(07)
08.11.2021
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

(Via Video Conference)

CO No. 1020 of 2020
Sri Amaresh Banerjee & ors.
-versus-
Mrs. Sumati Singh & ors.

Mr. Subhendu Bandyopadhyay,

... for the petitioners.

The plaintiffs in a suit for declaration being Title Suit No. 1322 of 2014 pending before the 2nd Court of learned Civil Judge (Junior Division) Serampore, District. Hooghly are the petitioners of the present application under Article 227 of the Constitution of India.

The learned Trial Judge by the order no. 79 dated February 05, 2015 allowed an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure filed by the defendants/opposite parties in the said suit with the following order:

“that the application under consideration is allowed on contest; defendants no. 1 and 2 are at liberty to make supporting wall and roof over the staircase of ‘B’ schedule property in accordance with the municipal law and any other law in force for the time being; plaintiffs are hereby restrained from causing any disturbance in order to make supporting wall and roof of staircase by the defendants over the ‘B’ schedule property; defendants are hereby directed

not to violate the injunction order dtd. 15/12/2009 in any manner.”

The 2nd Court of learned Additional District Judge, Serampore, District. Hooghly by order dated December 06, 2019 has dismissed the appeal being Misc. Appeal No. 5 of 2017 taken out by the petitioners against the said order of the learned Trial Judge. The petitioners are aggrieved by the said order.

Learned counsel for the petitioners submits that the petitioners under the Right to Information Act, 2005 had received information from the Rishrah Municipality that the opposite parties did not obtain any permission from the said Municipality to execute construction work over the ‘B’ schedule property and they had filed the document regarding the said information in the miscellaneous appeal but the appeal Court below misconstruing the said document has dismissed the appeal.

The construction work over ‘B’ schedule property is complete, if the said construction is made in violation of the order of injunction passed by the learned Trial Judge, affirmed by the appeal Court below, other consequence will follow for which the order impugned cannot be faulted.

CO 1020 of 2020 is disposed of with the above observations without any order as to costs.

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

(Biswajit Basu, J.)