

04.01.2021
Court No. 19
Item No. 11
CP

C.O. 1070 of 2020

Ganesh Mondal & ors.
vs.
Sub-Divisional Officer, Kalyani & ors.

Mr. Tapan Kr. Rakshit
Mr. Surajit Roy

....for the petitioners.

The plaintiffs in Title Suit No. 40 of 2018 pending before the learned Civil Judge (Junior Division), Kalyani, Nadia has preferred this revisional application being aggrieved by an order dated January 22, 2020. By the order impugned an application for implementation of the order of injunction by the police, filed under Section 151 of the Code of Civil Procedure has been rejected. The learned court below rejected the application for police help on two grounds, namely, that the complaints with regard to forcible entry of certain named persons before the police authorities and the S.D.O., Kalyani was made in April 2019 and after a considerable long time the application was filed in court. Secondly, the learned court below has found that the persons named in the application under Section 151 of the Code of Civil Procedure, allegedly flouting the order were not connected with the defendants.

The defendants are State authorities, namely, the Sub-Divisional Officer, Kalyani, the Block Land and Land Reforms Officer, Chakdaha and the Collector, Nadia. The learned court below upon perusal of the documents and the letters of complaint filed before the police and other authorities came to the conclusion that the persons named in the petition under Section 151 of the Code of Civil Procedure allegedly taking away mud from the land of the petitioners were not connected with the defendants but they were described as brick field owners of neighbouring plots. Thus, after nine months from the date of the initial complaint before the police the learned court below did not exercise its discretion to pass an order under Section 151 of the Code of Civil Procedure for implementation of the order of ad-interim injunction.

There is nothing on record to show that the named persons who are local brick field owners were in any way connected with the defendants against whom the ad-interim injunction was passed. Moreover, the learned court below has also observed that there was construction of a bridge going on for public purpose and the petitioners were trying to obstruct such construction by using this circuitous method.

In view of the factual finding of the learned court below, I do not wish to interfere with the order

impugned passed by the learned court below with regard to the violation complained of.

Records reveal that an application under Order 39 Rule 2A and an application under Order 39 Rule 7 of the Code of Civil Procedure are already pending. The petitioner can always approach the learned court below at appropriate stage if the defendants violate the order but at of now no nexus between the defendants and the named persons in the application could be shown.

The revisional application is disposed of. 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.)