

S/L 20
21.04.2021
Court. No. 19
GB

C.O. 634 of 2021

Kartick Kanchra
Vs.
Maidul Islam Molla & Ors.

(Through Video Conference)

Mr. Anindya Halder,
Mr. Sukanta Chakraborty.
...for the Petitioner.

This revisional application has been filed by the plaintiff/petitioner being aggrieved by an order dated January 28, 2021 passed by the learned Civil Judge (Senior Division), 10th Court at Alipore in Title Suit No.126 of 2017.

By the order impugned, the learned court below rejected an application under Section 151 of the Code of Civil Procedure. The application under Section 151 of the Code of Civil Procedure was filed for implementation of an order dated July 26, 2019, by which the defendants were restrained from taking possession of the portion of his share of the suit property purchased by him or from making any effort to enter or disturb the current position of the suit property in any manner whatsoever. The suit property has been mentioned in the schedule of the plaint. The schedule-II of the property is alleged to have transferred to third parties, but according to the plaintiff the same forms part of an undivided property. The said order of ad interim injunction was passed on July 26, 2019. Thereafter an application under

Section 151 of the Code of Civil Procedure was filed by the petitioner sometime in November, 2019 with the following allegations –

“6. However, the Defendant No.1 has been continuously misinterpreting the said order of the Honorable High Court and has been constantly claiming that it is not the further proceedings in the instant suit which has been stayed, but the order of injunction itself. With such fraudulent claim, the Defendant No.1 has been, with mala fide intention, swiftly continuing and carrying on with the construction work in the portion of the suit property by way of working day and night in constructing concrete structures and laying columns.”

The plaintiff made a prayer for a direction upon the Officer-in-Charge, Bishnupur police station to see that the order of injunction was being strictly complied with. The learned court below came to the conclusion that there was not a single scrap of paper, which would show that the defendants were trying to raise construction.

Apart from the allegation that the defendants were trying to raise construction on the suit property, this Court does not find any specific allegation with regard to the nature of the construction, the date from which the construction was being made and no complaints to that effect has also made to the police authorities.

Under such circumstances, this Court finds that the allegations are vague and lacking in material particulars.

This Court does not find any irregularity in the order impugned. The order for police help cannot be allowed on the mere asking. If there has been violation of the order of injunction, the petitioner should have filed appropriate application with better particulars for implementation. The Court was also not wrong in directing the petitioner to take out appropriate proceedings. Mr. Chakraborty's contention that police help under Section 151 of the Code of Civil Procedure can be allowed in very extreme and emergent situations is acceptable but, from the application filed in this proceeding, I do not find any such situation had occurred for the learned court below to grant police help. The allegation is totally vague and lacking in material particulars.

Revisional application is thus not entertained and disposed of accordingly.

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.)