

26.08.2021
Srimanta
Sl. No. 12
Ct. No. 18

CO/956/2019
[Via Video Conference]

Harindar Shaw & Anr.
-Vs.-
Manoj Kumar Prasad

Mr. Taraknath Halder, Adv.

...for petitioners.

Mr. Parikshit Basu, Adv.,

Mr. Rajnil Mukherjee, Adv.

...for the opposite party.

This revisional application under Article 227 of the Constitution of India is at the instance of the plaintiffs in a suit for declaration and is directed against the order dated December 17, 2018 passed by the Second Court of Learned Civil Judge (Junior Division), at Sealdah in the said suit being the Title Suit No. 245 of 2017.

The Learned Trial Judge by the order impugned has dismissed an application filed by the petitioners seeking repair of the suit property.

Mr. Rajnil Mukherjee, Learned Advocate appearing on behalf of the petitioners draws my attention to the written objection filed by his client against the said application for repair wherein the opposite party specifically stated that Kolkata Municipal Corporation has already issued a notice under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 directing not to make any unauthorized construction over the suit property. He files a copy of the said notice, which is taken on record.

In view of a subsisting notice under the said provision of the said Act over the suit property this Court is not inclined to interfere with the order impugned to permit the petitioners to execute the said repair work over the suit property.

C.O. 956 of 2019 is therefore dismissed without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Biswajit Basu, J.)