

12.04.2021
Court No. 19
Item no.14
CP

C.O. 784 of 2021

Sri Sukhdeb Saha
vs.
Mr. Gautam Basu & ors.

Mr. Srijib Chakrabarty
Mr. Tanmoy Mukherjee
Mr. Debabrata Roy
Mr. Rudranil Das

.....for the petitioner.

Mr. Aniruddha Mitra
Mr. D. Sengupta
Mr. Ayan Chakraborty

.....for the opposite parties.

This revisional application has been filed by the plaintiff in Title Suit No. 81 of 2021 being aggrieved by an order dated March 17, 2021 passed by the learned Additional District Judge, 7th Court at Barasat, North 24 Parganas in Misc. Appeal No. 37 of 2021. Misc. Appeal No. 37 of 2021 arises out of an order dated February 26, 2021 passed by the learned Civil Judge (Junior Division), Bidhannagar refusing an ad-interim temporary injunction in favour of the plaintiff. In the Misc. Appeal as well, ad-interim order was refused.

The plaintiff/petitioner argues that the prima facie case of the plaintiff was not taken into consideration by the learned courts below. It is urged

that the plaintiff had prayed for stay of the result of the resolution taken in the annual general meeting dated February 14, 2021 as the said meeting was held as a special meeting with 24 hours notice in contravention to an order of status quo. Neither of the courts below took into consideration the settled principle of law that any action done in the teeth of an injunction order was a nullity and non-est and rejected the prayer for ad-interim order.

It is submitted on behalf of the opposite parties that the notice of the meeting which had been stayed in Title Suit No. 65 of 2021 was not in relation to a notice for election/selection of the new executive committee members and, as such, the status quo order did not put any embargo on the meeting which was held on February 14, 2021.

Mr. Mukherjee, submits that the notice on December 12, 2020 clarified that it was a notice of an annual general meeting and it goes without saying that an annual general meeting after the pandemic period was obviously called for selection of a new executive committee as the term of the existing committee had expired long ago.

These are the factual contentions of the parties in this proceeding. According to the opposite parties, the only problem which now emerges is that the accounts are lying with the petitioner/plaintiff and

the newly formed committee is not being able to take steps with regard to those accounts. Allegations of defalcation have also been made.

However, this court is not going into the discussion on the facts and the merits of the pleadings of either of the parties because this court is of the opinion that the learned Trial Judge should be directed to expeditiously dispose of the injunction application in view of the fact situation where a functioning of a society is involved and accounts etc. are also relevant considerations.

It is made clear that the petitioner/plaintiff shall not handle any of the accounts till the disposal of the application for injunction. Without going into further consideration of the case of the rival parties, the learned Trial Judge is directed to dispose of the injunction application within a period four weeks from date. The learned Trial Judge will dispose of the injunction application as directed hereinabove with reasons and upon considering the rival contentions of the parties and also decide all the issues in the injunction application and in the objection to be filed by the opposite parties.

The opposite parties will file their written objection within ten days from date. An advance copy be served upon the petitioner/plaintiff.

In view of the above order, nothing remains to be decided in the Misc. Appeal and the Misc. Appeal is, accordingly, disposed of on consent of the parties.

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.)