

**AVTAR SINGH & ORS. VS. ABHISHEK
DEBNATH & ORS.**

(Through Video Conference)

**Mr. Amal Kumar Saha
Mr. Tanmoy Mukherjee
 ..for the petitioners
Mr. Rajdeep Bhattacharya
 ..for the opposite parties**

This revisional application arises out of an order dated April 6, 2021 passed by the learned District Judge, Alipore, District South 24 Parganas in Misc. Appeal No. 86 of 2021. Misc. Appeal No. 86 of 2021 arises out of an order dated March 24, 2021 passed by the learned Civil Judge, Senior Division, 6th Court, Alipore, in Title Suit No. 676 of 2020.

The learned Trial Judge allowed the application for injunction filed by the plaintiffs with reasons. A group of persons, who claimed to be necessary parties to the proceeding, filed an application for addition of party before the learned Trial Judge. The said application for addition of party was fixed for hearing before the learned Trial Judge. The learned Trial Judge without taking up the application for addition of party, disposed of the application for injunction on contested

hearing between the parties to the suit.

Aggrieved, the petitioners, who filed the application for addition of party, preferred Misc. Appeal along with an application for stay and also leave to appeal. The leave to appeal application was filed, as the petitioners who preferred the Misc. Appeal were not parties to the suit. The learned Court below directed service and fixed the matter for hearing on May 11, 2021.

Mr. Rajdeep Bhattacharya, learned Advocate appearing on behalf of the opposite party No.1/plaintiff submits that without affording an opportunity to the plaintiff to file the written objection to the application for leave to appeal, the learned lower appellate Court could not have disposed of the application and as such the learned lower appellate Court rightly fixed the matter on May 11, 2021 with a direction for service.

I am in agreement with the contention of Mr. Bhattacharya. Thus, this revisional application is disposed of with a direction upon the plaintiffs to file a written objection to the application for leave to appeal, within May 11, 2021 upon service of an advance copy upon the learned Advocate who is appearing on behalf of the petitioners in the learned lower appellate court. The learned lower appellate Court is requested to accept the application for leave to appeal and dispose of the same in accordance with law upon contested hearing preferably

within a period of one month from the next date fixed. On the basis of the outcome of the said application, the learned lower appellate Court shall proceed with the appeal in accordance with law.

This Court has not gone into the merits of the appeal or the order of the learned lower appellate Court and shall consider the entire issue on its own merits.

There will be however no order as to costs.

Urgent photostat certified copy of this order be given to the parties on priority basis, if the same is applied for.

(Shampa Sarkar,J.)