

S/L 6
28.04.2021
Court. No. 19
GB

C.O. 1093 of 2021

Anjana Saha
Vs.
Sri Sanjay Prasad Nandy & Ors.

(Through Video Conference)

Mr. Subhojit Ghosh,
Mr. Subhobrata Chowdhury.
...for the Petitioner.

The order impugned before this Court is the order dated April 19, 2021, by which an *ad interim* order of injunction passed by the learned Civil Judge (Senior Division), 5th Court at Alipore, District 24 Parganas (South) in Title Suit No.114 of 2021 was vacated on the application of the opposite parties filed under Order 39, Rule 4 of the Code of Civil Procedure. The petitioner has preferred this revisional application alleging the said order.

The contention of the petitioner is that, the petitioner was suspected of having contacted COVID-19 and was awaiting the test report and was forced to stay in home isolation on that date. Although the petitioner's contention is a valid ground for not being able to appear before the court on the date fixed, yet the order impugned is an appealable order, being an order passed under Order 39, Rule 4 of the Code of Civil Procedure by which the ad-interim order was vacated. Thus the revisional application is disposed of as being not maintainable, with a direction upon the learned

court below to hear out the Misc. Appeal to be filed by the petitioner expeditiously and in accordance with law. The appeal along with appropriate applications should be filed by the petitioner within 10 days from date. Copies of the Misc. Appeal and the application be served in advance upon the opposite parties as also the learned advocate appearing in the learned court below so that the hearing of the appeal and the application is expedited. If such appeal is filed, the learned lower appellate court is directed to dispose of the appeal and the application expeditiously, in view of the urgency involved.

This Court has not gone into the merits of the suit or the application for injunction.

The learned lower appellate court will decide the Misc. Appeal independently and in accordance with law.

The revisional application is disposed of.

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.)