

22nd July,
2021
(AK)
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C.O. 1098 of 2021

**Appejay Private Limited
Vs.
National Council of YMCAs of India and another**

(Via video conference)

Mr. Sayantan Basu
Ms. Pritha Ghose
Mr. Raghunath Ghose
...For the Petitioner.

Mr. Arindam Banerjee
Mr. Avishek Banerjee
...For the Opposite Party No.1.

The limited grievance of the petitioner is that, by the impugned order dated March 24, 2021, virtually status-quo ante was granted by the extension of an interim order, which automatically stood vacated long back.

It is submitted that, in the meantime, the status of the property, as far as possession is concerned, has altered, in view of possession having been handed over to the petitioner.

However, such contentions are controverted by learned counsel appearing for the opposite party no.1, that is, the main contending opposite party, who further submits that the application under Article 227 is not maintainable, since the impugned order is an appealable

one, being in effect an order passed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure.

Although learned counsel for the opposite party no.1 is justified in contending that, in normal circumstances, an appeal would lie against the order impugned herein, due to the innocuous nature of the order proposed to be passed, the matter need not be relegated further to an appellate court, which would unnecessarily delay the suit, thereby affecting both the parties adversely.

It is obvious that the petitioner is correct in contending that the long-expired status-quo order could not be revived in the garb of extension, since the court ought to have recorded a finding, then, as to the current status of the suit property on the date of the impugned order, that is, March 24, 2021.

However, it is seen from the impugned order that the order is vague as regards whether the same was extended with effect from the date of the impugned order or from the date on which it expired, the latter being the normal connotation of the term "*extension*".

In such view of the matter, justice would be subserved if, instead of relegating the matter further to the trial court for a re-adjudication of the impugned order, the injunction application is directed to be heard out expeditiously upon clarifying the exact nature of the interim order.

Accordingly, C.O. 1098 of 2021 is disposed of without interfering with the impugned order but making it clear that the “*extension*” granted by the said impugned order shall only connote that the interim order granted afresh will operate from the date of the impugned order, that is, March 24, 2021 and not from the date when the interim order had expired.

The court below is requested to dispose of the injunction application itself, pending before it in connection with Title Suit No. 1316 of 2018, as expeditiously as possible, positively within a month from the date of communication of this order to the court below, upon giving adequate opportunity of hearing to both the contending parties.

The trial court shall act on the written communication of the learned advocates for the parties, accompanied by a server copy of this order, instead of insisting upon prior production of a certified copy for the purpose of compliance.

It is made clear that this court has not gone into the merits of the respective contentions of the parties in the suit and/or in the injunction application and it will be open to the trial court to decide on all such contentions independently, without being influenced by any of the observations made herein.

There will be no order as to costs.

Urgent website certified copies of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)