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11.11.2021
(p.jana)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
(Via Video Conference)**

CO No. 1109 of 2021

**Sri Srihari Charan Tola & anr.
-versus-
Sri Ramkrishna Jana & ors.**

Mr. Amit Baran Dash,
... for the petitioners.

Mr. Saunak Bhattacharya ... for O.P. Nos. 1, 2 & 3.

Affidavit-of-service filed on behalf of the petitioners in Court today be kept with the record.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiffs in a suit for partition and is directed against the order no. 41 dated March 23, 2021 passed by the 2nd Court of learned Civil Judge (Senior Division), Contai, Purba Medinipur in the said suit being Title Suit No. 73 of 2018.

The plaintiffs' application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure was allowed by the learned Trial Judge vide order no. 23 dated November 27, 2019 by directing the plaintiffs and defendant nos. 6,7 and 8 to maintain status quo in respect of the nature, character and possession over 'Kha' schedule properties till the disposal of the suit.

The learned Trial Judge, by the order impugned has dismissed an application filed by the petitioners for implementation of the said order of injunction by police assistance holding that the plaintiffs since have not filed any application for bringing picture of the locale on record, it is difficult to allow the application of the petitioners.

Mr. Saunak Bhattacharya, learned advocate appearing on behalf of the opposite party nos. 1, 2 and 3, strongly denies the allegation of the petitioners that his clients are violating the said order of injunction. He, however, submits that the order of injunction in the form of status quo without clarifying what the status quo is, cannot be implemented.

The learned Trial Judge has dismissed the application of the petitioners for want of sufficient materials justifying the allegation of violation of the said order of injunction.

Mr. Das, learned advocate for the petitioners submits that if opportunity is given, the petitioners can produce photograph and other evidence to prove the violation of the said order of injunction.

To give a further chance to the petitioners to prove their allegations made in the said application, the order impugned is set aside with a liberty to the petitioners to bring sufficient materials on record in support of their prayer for implementation of the said order of injunction by police assistance.

It is open for the defendants to object to the said prayer of the petitioners on all grounds available under the law.

C.O. 1109 of 2021 is disposed of with a request to the learned Trial Judge to decide the said application expeditiously in accordance with law. There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance of all requisite formalities.

(Biswajit Basu, J.)