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June 23,
2021

C.O. No.1150 of 2021

**Pranab Kumar Bakuly
Versus
Papia Chakraborty and another**

With

C.O. No.1174 of 2021

**Sri Pranab Kumar Bakuli
Versus
Smt. Papia Chakraborty and another**

(Via Video Conference)

Mr. Uday Narayan Betal,
Mr. Sk. Toslim Ali.
...for the petitioner.

Mr. Rwitendra Banerjee,
Mr. Sandip Kundu,
Mr. Shibasis Chatterjee.
...for the opposite parties.

Learned counsel appearing for the petitioner in both the matters contends that the opposite parties are raising construction and changing the nature and character of the property-in-question, which is a 'danga' land and that the court below acted without jurisdiction in refusing to grant injunction as prayed for by the petitioner.

Learned counsel further submits that, in the event the nature and character of the land is altered beyond recognition, the petitioner might be prejudiced adversely in the event the preemption application is decided in favour of the petitioner.

Learned counsel appearing for the opposite parties contends that the prayer for ad interim injunction was rightly refused by the court below in view of a caveat having been lodged by the present opposite parties. Moreover, it is contended that in view of the provisions of the West Bengal Land Reforms Act, 1955, in the event the petitioner succeeds in the preemption case, the petitioner shall acquire the property-in-question along with all accretions thereto and/or constructions thereon.

That apart, learned counsel for the opposite parties submits that the land is not a 'danga' land, but a 'bastu' land. The petitioner, it is contended, was sleeping over his rights throughout the period when the construction was started and has only sought injunction at a belated juncture to harass the opposite parties.

Such contentions are refuted by learned counsel appearing for the petitioner.

The two applications under Article 227 of the Constitution have been filed respectively against an

order refusing ad interim injunction and seeking an order for expeditious hearing of the injunction application of the petitioner in the court below.

There is substance in the submission of the opposite parties that, in a preemption proceeding under Section 8 of the West Bengal Land Reforms Act, 1955, an injunction in respect of the nature and character of the land-in-question is ordinarily not granted in view of the fact that the proposed preemptor is sufficiently protected by law and will acquire the property along with all accretions without the opposite parties being able to raise any claim as regards equity, in the event the preemption application succeeds. That apart, at this inchoate stage, it is neither possible nor appropriate for the revisional court to enter into the factual merits of the prayer for injunction, particularly when the court below is in seisin of the matter. Hence no order of injunction/status quo is passed at this stage.

Accordingly, C.O.No.1150 of 2021 and C.O. No.1174 of 2021 are disposed of by requesting the Civil Judge (Junior Division) at Amta, District-Howrah to dispose of the applications for local inspection and injunction, pending at the behest of the petitioner in the said court in connection with L.R. Misc. Case No.3 of 2021, as expeditiously as possibly, preferably

within one month from the date of communication of this order to the court below.

It is made clear that this Court has not gone into the merits of the rival contentions of the parties in the preemption case and/or the injunction application and it will be open to the parties to approach the trial court for ad interim orders, if any, in connection with the injunction application in the meantime.

The trial court shall dispose of the pending applications as well as the preemption case itself on their own merits without being influenced in any manner by any of the observations made herein.

The court below shall act on the communication of the learned advocates for the parties and/or server copies of this order, without insisting upon prior production of a certified copy.

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 formalities.

(Sabyasachi Bhattacharyya, J.)