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20.07.2021
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**In the High Court at Calcutta
Civil Revisional Jurisdiction
Appellate Side**

C.O. No. 1152 of 2021
(Via video conference)

Jayanta Kumar Das & Anr.
-Vs.-
Sekh Firoj Ali & Ors.

Mr. Asok Kumar Janah,
Ms. Pampa Dey Dhabal
Mr. Krishna Deo Das
...for the petitioners

Despite service, none appears on behalf of
the opposite parties at the time of call.

Affidavit-of-service filed in Court today be
kept on record.

By the impugned order, the trial court
rejected the petitioners' application under Section
151 of the Code of Civil Procedure, for
implementation of an injunction order by grant of
police help, merely on the ground that an
alternative remedy was available under Order
XXXIX Rule 2A of the Code of Civil Procedure, by
placing reliance on a judgment of this Court.
However, it is now well settled in view of the
subsequent legal position, that alternative remedy

under Order XXXIX Rule 2A of the Code is neither an equally efficacious remedy as police help, nor a bar to the court directing implementation of an order of injunction by police help. Such provisions operate in different spheres and the nature of relief sought under each is independent of the other.

Hence, the impugned order was passed palpably without jurisdiction.

Accordingly, C.O. No. 1152 of 2021 is allowed, thereby setting aside Order No. 10 dated March 04, 2021, passed by the Civil Judge (Senior Division), First Court at Tamluk, District-Purba Medinipur, in Title Suit No. 160 of 2020 and directing the trial Judge to hear the application filed by the petitioner under Section 151 of the Code of Civil Procedure for police help afresh on its merits and to decide the same as early as possible upon hearing both sides, preferably within a month from the date of communication of this order to the court below.

The parties as well as the court below shall act on the communication of the learned advocate for the petitioners, accompanied by a server copy of this order, without insisting upon prior production of a certified copy thereof.

There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)