

AD. 58.
June 24, 2021.
MNS.

C. O. No. 1183 of 2021
(Via video conference)

Sahid Khan
Vs.
Nasir Ali Khan and others

Mr. Sudip Ghosh Chowdhury

... for the petitioner.

The petitioner contends that, despite the petitioner having title and possession to the suit property, the appellate court refused to grant ad interim stay of operation of an ad interim injunction order passed by the trial court, whereby the petitioner was restrained from erecting any construction on the said property.

However, it appears from the impugned order that the logic on which the ad interim stay was refused is impeccable. Granting ad interim stay of operation of an injunction order of the nature as granted in the present case, would tantamount to allowing the appeal without hearing the parties on merits. In the event the injunction order is stayed, the petitioner will be free to continue construction, thereby changing the

status in respect of the suit property and its nature and character, which would be contrary to the settled law that the endeavour will be to keep the property in status quo under normal circumstances.

Be that as it may, there is no scope of going into the merits of the appeal or the injunction application at this stage, since any observation in that regard may prejudice the courts below while disposing of the miscellaneous appeal as well as the injunction application.

Thus, without going into the merits of the respective contentions of the parties, C. O. No. 1183 of 2021 is disposed of by requesting the Civil Judge (Senior Division), Chandannagar, District- Hooghly, to dispose of Miscellaneous Appeal No. 10 of 2021 pending in the said court, along with connected applications, if any, within one month from the date of communication of this order to the court below.

There will be no order as to costs.

The petitioner shall communicate this order to the court below, as well as to the opposite party no. 1 and/or the learned advocate appearing for the said opposite party no. 1 in the

court below, at the earliest, along with a server copy of this order.

(Sabyasachi Bhattacharyya, J.)