

28.07.2021
(S/L-22)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 1233 of 2021

Abhijit Kanjilal & Anr.
-Vs-
Sri Ashis Pal

Mr. Supratim Dhar,
..... For the Petitioners.

Mr. Gouranga Kumar Das,
.... For the Opposite party.

The revisional application under Article 227 of the Constitution of India is at the instance of the defendants/petitioners in a suit for declaration and restoration of possession and is directed against an order no. 15 dated April 22, 2021 passed by the 2nd Court of learned Civil Judge (Junior Division), Baruipur, District 24-Parganas (South) in the said suit being Title Suit no. 170 of 2020.

The plaintiff/opposite party is alleging that the defendants/petitioners have illegally dispossessed him from the suit flat.

The plaintiff/opposite party in the said suit filed an application under Section 151 of the Code of Civil Procedure alleging that in spite of a subsisting order of injunction the defendants/petitioners have removed the articles

belonging to him kept in the suit flat and to substantiate his said allegation prayed that CCTV footage of the suit flat recorded on April 20, 2021, April 21, 2021 and April 22, 2021 may be collected by the Officer-in-Charge, Sonarpur Police Station.

The learned Trial Judge by the order impugned has disposed of the said application with the following observations:

“The petition u/s 151 of the CPC dt. 22.04.2021 is disposed of, but not on merit but only in regard to the restoration of CCTV footage (if any). Let a copy of this order be sent to I.C., Sonarpur P.S. for compliance.”

The above quoted observations indicate that the learned Trial Judge was not sure about the existence of such CCTV footage, that being the position, the learned Trial Judge should not have allowed the said application on the date of its filing without affording an opportunity to the petitioners to controvert the allegations of the said application.

The direction for collection of the alleged CCTV footage without going into merit of the said application is also not warranted.

The order impugned for the aforesaid reasons is not sustainable and is, therefore, set aside.

C.O. 1233 of 2021 is thus allowed, without any order as to costs.

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

(Biswajit Basu, J.)