

07.09.2021
Item No.22
Ct. No.7
CHC

**C.O.1248 of 2021
(Physical Hearing)**

**Trilochan Mondal & ors.
Vs.
Chayan Das Bairagya & ors.**

Mr. Sabyasachi Mukhopadhyay,
Ms. Koushikee Banerjee
...for the petitioners

Mr. Sagnik Chatterjee
...for the opposite party nos.1 to 5

The affidavit-of-service furnished by the petitioners
be taken on record.

The impugned order dated 25th June, 2021, passed
by learned Civil Judge (Junior Division), 2nd Court,
Katwa, in Title Suit No.08 of 2021 rejecting one
recalling application and another restoration
application for the enforcement of injunction order,
passed in connection with Order XXXIX Rule 1 and 2
C.P.C. granting ad interim order of injunction on
07.01.2021, is the subject of challenge in this
revisional application.

Mr. Sabyasachi Mukhopadhyay, learned advocate representing the petitioners submits that the court below by the order impugned refused to extend the interim order thereby recalling its own order for the enforcement of the ad interim order of injunction simply for the reasons of not filing any appropriate application for the purpose even during COVID-19 situation inclusive of its proliferation.

The writ jurisdiction of this Court was approached in connection with WPA 5323 of 2020 for extension of the interim order passed in connection with any pending application. The order passed in writ jurisdiction has also been made known to the learned court below, but even after knowing the impact of COVID situation, the learned court below refused to recall the order and thereby declined to restore the order of ad interim order injunction granted on 7th January, 2021.

It is further submitted by the learned advocate for the petitioners that petitioners filed one application for substitution under Order 22 Rule 3 C.P.C. on 16.6.2021 and two applications on 22nd June, 2021, one for recalling and another for restoration of the injunction order, but the court below has erroneously rejected both the applications and thereby proceeded to dispose of the injunction application posting the matter on 12th July, 2021.

Mr. Sagnik Chatterjee, learned advocate representing the opposite party nos.1 to 5 submits that there cannot be any automatic extension of the ad interim injunction without any required application being filed for the purpose by the petitioners seeking extension of the ad interim order of injunction. Incidentally, learned advocate for the opposite parties submits that there might be some typographical mistakes of date/dates contained in the impugned order, which is not of highest consequence.

Learned advocate for the opposite party nos.1 to 5 acknowledges receipt of the application praying for substitution, filed on 16th June, 2021 and that application has not yet been disposed of by the learned court below.

True it is that filing of an application may be the requirement for extension of the interim order, but more important is that the impact and proliferation of the COVID-19 situation, and upon reviewing the present COVID-19 situation, the interim order granted by the court below in all pending applications has already been extended up to 15th September, 2021, which has been duly published in the official website of the High Court.

That being the position, the order dated 7th June, 2021, granting ad interim injunction stands automatically extended up to 15th September, 2021.

The impugned order rejecting both the petitions dated 16th June, 2021 and 22nd June, 2021 are accordingly set aside.

Learned court below is directed to dispose of the substitution application, filed by the petitioners/plaintiffs on 16th June, 2021 providing sufficient opportunity of hearing to either of the parties to this case as expeditiously as possible without granting any unnecessary adjournment.

After disposal of the substitution application, pending injunction application, if the same is otherwise ready, may be expeditiously disposed of preferably within three months from the date of communication of this order without granting unnecessary adjournment, unless it is extremely unavoidable.

Petitioners are given liberty to take appropriate steps before the learned court below so that ad interim order of injunction may be extended till the hearing of application for temporary injunction under Order XXXIX Rule 1 and 2 C.P.C.

This order is passed without touching upon the merits of the case, and also without prejudice to the rights and contentions of the parties.

With the above observations/directions, the instant revisional application stands disposed of.

Petitioners are directed to make communication of this order to the learned court below.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)