

06,DL,Ct.18
30.09.2021
AJ.

C.O. 1422 of 2021
(Through Video Conference)
Sri Parimal Bera
-Vs-
Sri Binanda Gora & Ors.

Mr. Ayan Banerjee,
Ms. Amrita Pandey.
... for the petitioner.

Mr. Ritwik Pattanayak.
....for the opposite parties.

The defendant no.1 in a suit for injunction is the petitioner of the present application under Article 227 of the Constitution of India which is directed against Order No.14 dated December 21, 2020 passed by the learned District Judge, Jhargram in Misc. Appeal No. 03 of 2020.

The opposite party nos. 1 to 13 have filed a suit for injunction being Title Suit No. 78 of 2017 in the Court of the learned Civil Judge (Junior Division) at Jhargram, District- Jhargram.

The learned Trial Judge by the order dated March 06, 2020 allowed an application filed by the plaintiffs/opposite parties in the said suit under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure.

The defendant no.1 being aggrieved by the said order has preferred the connected Misc. Appeal.

The learned District Judge by the order impugned has refused to pass an ad-interim order of stay of operation of the order under challenge in the said appeal.

Mr. Ayan Banerjee, learned counsel appearing on behalf of the petitioner submits that the said order of injunction is causing severe hardship to the petitioner inasmuch as because of the existence of such an order of injunction, the petitioner is unable to set up the petrol pump on the suit property in spite of having allotment of license in his favour by the Indian Oil Corporation.

Mr. Ritwik Pattanayak, learned counsel appearing on behalf of the plaintiffs/opposite parties submits that his clients have not yet received the notice of appeal.

Staying the operation of an order of injunction at the threshold in an appeal challenging the said order would be amounting to allowing of the said appeal itself, therefore, the learned District Judge has not committed any error in refusing the said prayer of the petitioner.

However, the said Appeal requires expeditious disposal.

In view of the appearance of the plaintiffs in the present revisional application, the said Miscellaneous Appeal shall be treated ready as

regards service against the plaintiffs, respondents of the said appeal.

The plaintiffs are at liberty to affirm affidavit-in-opposition to the application for injunction within ten days after reopening of the appeal Court below following the ensuing Puja vacation; reply thereto, if any, be affirmed by the defendant no.1/appellant within one week from the date of receipt of the copy of such affidavit-in-opposition.

The learned appeal Court below is requested to expedite the disposal of the said appeal, preferably within a period of one effective working month of the Court below from the date of expiry of the period of affirmation of the aforementioned affidavits by the parties.

The appeal Court below to adhere to the time limit fixed by this order for disposal of the said appeal shall not grant any unnecessary adjournment to either of the parties.

C.O. 1422 of 2021 is disposed of 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.)