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09.09.2021
(p.jana)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

(Via Video Conference)

CO No. 1447 of 2021

**Mrs. Chhanda De & anr.
-versus-
Smt. Kusum Arora & anr.**

Mr. Sukanta Chakraborty,
Mr. Anindya Halder,
... for the petitioners.

Mr. Siddhartha Banerjee,
Ms. S. B. Chatterjee, ... for the opposite parties.

This revisional application under Article 227 of the Constitution of India is at the instance of the plaintiffs in a suit for declaration and injunction and is directed against the order no. 2 dated August 02, 2021 passed by the learned District Judge at Alipore, District: 24 Parganas (South) in Misc. Appeal No. 127 of 2021.

The petitioners in the suit filed an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure.

The learned Trial Judge on the said application passed an ad interim order of injunction on April 13, 2021 in the form of status quo.

The defendants/opposite parties, aggrieved by the said order have preferred the connected miscellaneous appeal.

The appeal Court below by the order impugned has stayed the operation of the said order with a rider that the appellants can carry out essential repairing work of the suit property only to the extent of the permission granted by the plaintiffs/landlords.

Mr. Sukanta Chakraborty, learned counsel appearing on behalf of the petitioners submits that the appeal Court is not justified in staying the operation of the order under challenge in the said appeal inasmuch as such order of stay will be amounting to allow the appeal itself at the interlocutory stage.

Mr. Siddhartha Banerjee, learned counsel appearing on behalf of the defendants/opposite parties, submits that an order of status quo without clarifying what it is, is not proper, therefore, the appeal Court below is absolutely justified in staying the operation of the said order of the learned Trial Judge.

Heard the learned counsel for the parties, perused the materials-on-record.

The appeal Court normally while admitting the appeal should not stay the operation of the order under challenge as it is rightly submitted by Mr. Chakraborty that such order of stay would be amounting to allow the said appeal at the very beginning, but in the present case the appeal Court, while admitting the said appeal has stayed the operation of the order under challenge subject to the condition that the appellants, the opposite parties herein are entitled to carry out the essential repairing work of the suit property only to the extent of permission granted by the plaintiffs/landlords.

The appeal before the learned District Judge is at a very nascent stage; therefore, any decision on the merit of the present revisional application is not warranted as it would affect the decision of the said appeal.

However, to restrict the opposite parties, the appellants of the said appeal in carrying out the said repair work within the limit of the said condition, the appeal Court is requested to appoint a Special Officer to oversee the said repair work at the costs of the appellants/opposite parties, such appointment be made immediately on communication of this order.

Needless to say, that the nature of the appeal demands expeditious disposal of it, the appeal Court below is requested to adhere to it.

C.O. 1447 of 2021 is disposed of with the above terms without any order as to costs.

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

(Biswajit Basu, J.)