

09.09.2021.
Item No.8 & 112
Court No. 7

C.O. 1560 of 2021
Purna Chandra Manna and others.
Vs.
Sk. Masud Hasan and another.

With

C.O. 1435 of 2021
Purna Chandra Manna and others.
Vs.
Sk. Masud Hasan..

Mr. Rabindranath Mahato,
Mr. Aritra Shankar Ray.

... for the petitioners.

At the very threshold of this case, Mr. Rabindranath Mahato, learned Advocate representing the petitioners, submits that initially the petitioners filed another revisional application being CO 1435 of 2021 challenging the order dated 8th April 2021 passed by the learned Civil Judge (Junior Division), First Court at Midnapore. Such revisional application, according to Mr. Mahato, was filed without obtaining certified copy and upon collection of the certified copy, some defects could be discovered, and in such context proposes for dismissing the revisional application being CO 1435 of 2021 as not pressed. It is also submitted that reference of such fact has been duly mentioned in paragraph 13 of the revisional application being CO 1560 of 2021 and there has been no such suppression as regards the previous filing of another application being CO 1435 of 2021.

On the payer of Mr. Mahato, the revisional application being CO 1435 of 2021 stands dismissed as 'not pressed'.

Re: CO 1560 of 2021

By an order dated 8th April 2021, the learned Civil Judge (Junior Division), First Court at Midnapore in Title Suit No. 226 of 2019 vacated the ad interim order of injunction granted on 4th April 2019 for no step being taken by the petitioners/plaintiffs.

By another order dated 18th August 2021 in the same suit, the learned Court below allowed one application under Order I Rule 10(2) of the Code of Civil Procedure thereby allowing addition of parties.

So far as vacating the ad interim order of injunction is concerned, Mr. Rabindranath Mahato, learned Advocate representing the petitioners, submits that despite the order of the High Court, published in the official website, being communicated to the learned Court below, the learned Court below being oblivious of such order, vacated the ad interim order of injunction for want of any step being taken.

According to Mr. Mahato, since pandemic was then continued, no adequate step was taken and in view of the automatic extension of the interim order granted by the High Court in all the pending petitions, the learned Court below ought to have considered the extension of interim order without having vacated the ad interim order of injunction already granted in this case. Mr. Mahato proposes for continuation of the interim order.

As regards addition of the parties, Mr. Mahato submits that the learned Court below has erroneously reached the decision without having truly understood the purport of the provisions under Order I Rule 10(2) of the Code of Civil Procedure.

Presence of the opposite parties in the given context of this case is necessary.

Accordingly, the petitioners are directed to serve a copy of the revisional application upon the opposite parties by speed post with acknowledgement due and shall furnish affidavit of service on the next date fixed.

Pending decision of such revisional application, the interim order granted by the learned Court below on 4th April 2019 restraining the opposite parties from disturbing the peaceful possession of the plaintiff/petitioners be continued till three weeks after Puja Vacation.

Matter to appear in the list two weeks after the Puja Vacation under the heading “Adjourned Motion”.

The petitioners are directed to communicate this order to the learned Court below and also upon the opposite parties intimating the next date of hearing.

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(Subhasis Dasgupta, J.)