

02.09.2021
Item No.141
Ct. No.7
CHC

**C.O.1498 of 2021
(Physical Hearing)**

**Premankur De & anr.
Vs.
Ramapada Sen & ors.**

Mr. Sukanta Das
...for the petitioners

The impugned order dated 14th June, 2021, passed by learned Civil Judge (Senior Division), 3rd Court, Paschim Medinipur in Title Suit No.197 of 2021, directing police authority to ensure implementation of *status quo* order passed in connection with the prayer for ad interim injunction in a suit for partition, is the subject of challenge in this revisional application.

Mr. Sukanta Das, learned advocate representing the petitioners in the capacity of the plaintiff filed a suit being T.S.282 of 2020 before the learned Civil Judge (Junior Division), 2nd Court, Paschim Medinipur, for a declaration and injunction. Petitioners became the owners of the suit property by inheritance and gift deed and subsequently, got his name mutated. In connection with Title Suit No.282 of 2020 petitioner was favoured with an injunction order by order dated 28th August, 2020 thereby

restraining the defendants from disturbing the peaceful possession of the plaintiffs with respect to “A” Schedule property and not to create any obstruction in any manner whatsoever. Petitioners upon inheritance and by gift deed of the “A” schedule property proceeded to raise construction thereon.

It is contended by the learned advocate for the petitioners that even after knowing the injunction order passed against the opposite parties/defendants, they have separately instituted a suit for partition and other consequential relief before the learned Civil Judge (Senior Division), 3rd Court, Paschim Medinipur, being T.S.197 of 2021 making complete suppression of materials facts, and ultimately obtained an ad interim order of injunction directing petitioners/defendant nos.1 and 2 to maintain *status quo* regarding the possession as well as nature and character of the suit property.

Learned advocate for the petitioners his very much vocal that such order of injunction was passed behind his back without providing them any opportunity to contest ad interim injunction matter.

It is also submitted that by order dated 14th June, 2021, the opposite parties have obtained an order from the court below in T.S.197/2021 with a direction upon the police authorities for implementation of the *status quo* order passed in

connection with suit for partition, and Officer-in-Charge, Debra Police Station has been accordingly directed to ensure implementation of the injunction order.

Having known such injunction order and the order of granting police help for the implementation of injunction order, petitioners have already taken out an application being Annexure-“P-4” of the instant revisional application under Order XXXIX Rule 4 C.P.C. seeking variation, modification and alteration of injunction order granted in this case, which is posted for hearing on 10th September, 2021, before the learned Civil Judge (Senior Division), 3rd Court, Paschim Medinipur, in Title Suit No. 197 of 2021.

According to learned advocate for the petitioners, direction upon the police to ensure implementation of the injunction order passed in partition suit pending decision of application under Order XXXIX Rule 4 C.P.C. will definitely cause prejudice to the injunction order already granted in their favour by the court below in T.S.282 of 2020.

Without going into the details, the point is very short, which may be decided without inviting any extensive hearing, and even without securing presence of the opposite parties. The service upon the opposite parties is thus dispensed with.

Upon perusal of the order dated 10th August, 2021, passed in Title Suit No.197 of 2021, it appears that vacating application has already been fixed for hearing on 10th September, 2021. In the given circumstances of this case, the Court is of the view that the point now raises to be addressed by this Court, may be surely raised and/or agitated before the learned court below in connection with the pending vacating application, and if any such points are raised in terms of the vacating application, that shall be duly addressed to by the learned court below providing sufficient opportunity of hearing to either of the parties to this case, and dispose of the same in accordance with the provisions of the law preferably within 31st December, 2021.

The merits involved in this case are not gone into, which are left to be decided by the learned court below, and this order is passed without prejudice to the rights and contentions of the parties involved in this case.

Pending hearing of application under order XXXIX Rule 4 C.P.C., the impugned order dated 14th June, 2021, directing to ensure implementation of the injunction order passed in Title Suit No.197 of 2021 be kept in abeyance.

With the aforesaid observations/directions, the instant application being C.O.1498 of 2021 is disposed of.

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.)