

15.09.2021
Item No.6
Ct. No.7
CHC

**C.O.1607 of 2021
(Via Video Conference)**

**Sukti Subhra Sahana & anr.
Vs.
Sri Tushar Kumar Kole & ors.**

Mr. Tanmoy Mukherjee,
Ms. Anuradha Poddar
...for the petitioners

Mr. Ashis Kumar Dutta,
...for the opposite party no.1

Parties are represented by the learned advocates, names of whom are shown at the top of this ordersheet.

Mr. Ashis Kumar Dutta, learned advocate for the opposite party no.1 undertakes to furnish Vakalatnama in the department in justification of his appearance.

The Court is approached under Article 227 of the Constitution of India soliciting a direction to ensure expeditious disposal of pending application for temporary injunction under Order XXXIX Rule 1 and 2 C.P.C. together with an application under Section 151 C.P.C. filed by the plaintiff/opposite party no.1 seeking police help for the implementation of the ad interim order of injunction, granted in this case.

Mr. Tanmoy Mukherjee, learned advocate appearing for the petitioners/defendants frankly admits that petitioners/defendants have been suffering ad interim order of injunction on the strength of order dated 29th September, 2020 passed in Title Suit No.305 of 2020 by learned Civil Judge (Junior Division), 2nd Court, Burdwan. Subsequently, the petitioners/defendants entered their appearance in the court below to contest the injunction application and already filed written objection against the injunction application. In the meantime, the plaintiff/opposite party no.1, according to Mr. Mukherjee, has taken up an application for police help under Section 151 C.P.C. The Court below, thereafter, proceeded to give precedence to application under Section 151 C.P.C. for police help keeping the temporary injunction application pending, though the same is ready for hearing.

It is contended by Mr. Mukherjee that a police report was called for in order to know the status of possession, and upon obtaining the police report, the possession could not be ascertained by the learned court below. The matter thereafter was referred to mediation, which was ultimately proved to be a futile exercise. By the order dated 21st August, 2021, the court below proceeded to decide the application under Section 151 C.P.C. seeking police help in isolation

keeping the application for temporary injunction pending.

Mr. Ashis Kumar Dutta, learned advocate representing the opposite party no.1/plaintiff submits that there lies nothing to be interfered with and the order passed by the learned court below would go unaltered.

It is also submitted that when the learned court below proceeded to dispose of the prayer, for police help giving precedence to such prayer having regard to the nature of the dispute involved in this case upon exercising due discretion, such discretion, being reasonably exercised, must go uninterfered with.

The point thus required to be addressed is very short and simple, requiring no extensive hearing and the same may even be disposed of instantly giving following direction for the purpose.

Learned advocate for the opposite party no.1 acknowledges service of copy of objection against the injunction application, filed by defendants in this case, and that being the position, the instant revisional application be disposed of directing the learned court below to take up injunction application under Order XXXIX Rule 1 and 2 simultaneously with the petition under Section 151 C.P.C. praying for police help.

The Court reposes confidence that both the petitions should be heard together expeditiously as possibly providing sufficient opportunity of hearing to either of the parties to this case, but without granting unnecessary adjournment, unless it is extremely unavoidable, preferably within four months from the date of communication of this order.

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

With this observation/direction, the instant revisional application stands 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.)