

(17)  
28.09.2021  
(p.jana)

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

**(Via Video Conference)**

**CO No. 1699 of 2021**

**Sri Gouranga Paul & anr.**

**-versus-**

**Sri Sibayan Dey & ors.**

Mr. Arijit Sarkar,  
... for the petitioners.

Ms. Sohini Chakraborty,  
Ms. Prajaaini Das, ... for the opposite party no. 1.

The defendants in a suit for declaration of title and injunction are the petitioners of the present revisional application under Article 227 of the Constitution of India which is directed against the order no. 3 dated July 05, 2021 passed by the 1<sup>st</sup> Court of learned Additional District Judge at Barasat, District- 24 Parganas (North) in Miscellaneous Appeal No. 66 of 2021 arising out of order no. 1 dated June 30, 2021 passed by the 3rd Court of learned Civil Judge (Senior Division) at Barasat in Title Suit No. 390 of 2021.

The plaintiff/opposite party no. 1 in the said 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 directing the parties not to change the nature, character and possession of the suit property till the next date fixed for hearing of the said application for injunction.

The plaintiff/opposite party no. 1 assailed the said order in the connected misc. appeal.

The appeal Court below by the order impugned passed an ad interim order of injunction in modification of the order of the learned Trial Judge.

Mr. Arijit Sarkar, learned advocate appearing on behalf of the petitioners submits that the appeal Court below has passed an ad interim order of injunction which was not even prayed for by the plaintiff/appellant, that too until further orders, which contradicts the cardinal principle of grant of an ad interim order of injunction which should be for a limited period.

Ms. Sohini Chakraborty, learned advocate appearing on behalf of the plaintiff/opposite party no. 1 on the other hand, submits that although the plaintiff/appellant has not specifically prayed for an order restraining the defendants/respondents from causing any obstruction to the construction work over the suit property but the order of injunction, as prayed for, if granted, it would certainly restrain the defendants/respondents from creating any such obstruction.

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

Mr. Sarkar is right in his submission that neither a case of obstruction in execution of construction work over the suit property has been made out nor an order prohibiting the defendants from interfering with such construction work has been prayed for in the application for injunction filed in the said miscellaneous appeal.

It is settled position of law that an ad interim order of injunction, if granted, must be for a limited period. The appeal Court below has committed jurisdictional error in granting such an ad-interim order of injunction for an indefinite period.

Therefore, the portion of the order impugned whereby the defendants have been restrained from raising any obstruction in the construction work over the suit property is set aside and the rest portion of the impugned ad-interim order of injunction shall be in force till the end of the month of December, 2021 or until further orders, whichever is earlier.

The order impugned is modified to the extent indicated above.

The appeal Court below is requested to dispose of the said miscellaneous appeal as expeditiously as possible, preferably before the end of this year and in doing so shall not grant any unnecessary adjournment to either of the parties.

C.O. 1699 of 2021 is thus 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 of all requisite formalities.

**(Biswajit Basu, J.)**