

15.11.2021
(S/L-25)
Ct.-18
(Susanta)

(Via Video Conference)
C.O. 1819 of 2021

Koniz Fatema
-Vs-
Aktar Ali
Mr. Arup Krishna Das,
... For the Petitioner.

Mr. Manas Kumar Das,
.... For the Opposite Party.

The plaintiff in a suit for partition being Partition Suit No.325 of 2021 pending before the learned Civil Judge (Senior Division) Kandi, District-Murshidabad is the petitioner of the present application under Article 227 of the Constitution of India.

The petitioner in the present application is assailing Order No. 05 dated September 13, 2021 whereby the learned Trial Judge on an application under Section 151 of the Code of Civil Procedure filed by the defendant/opposite party, has varied and/or modified the order of injunction passed in the said suit.

The application although has been captioned under Section 151 of the Code but the Court below has exercised the power under Order XXXIX Rule 4 of the Code to modify the order of injunction passed in the suit, as such, the order impugned is appealable under Order XLIII Rule 1(r) of the Code.

The revisional application challenging the said order is not maintainable; C.O. 1819 of 2021 is dismissed as such without any order as to costs.

Liberty is granted to the Junior of Mr. A.K. Das, learned advocate for the petitioner to take back the certified copy of the order impugned upon furnishing a photocopy thereof.

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

(Biswajit Basu, J.)