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Ct. 18
10.11.2021

C.O. No. 1856 of 2021
(Via Video Conference)
Enat Ali
Vs.
Sk. Jakir Hossain & Ors.

Mr. Amitabha Ghosh,
Sk. Sujauddin,
Ms. Nabanita Chatterjee ... For the petitioner.

The order proposed to be passed in the present application under Article 227 of the Constitution of India would not cause any prejudice to the opposite parties, as such, service of notice of the present application upon the said opposite parties is dispensed with.

The petitioner is the defendant no. 1 in a suit for partition being Title Suit No. 508 of 2020 pending before the 3rd Court of learned Civil Judge(Senior Division) at Barasat, District – 24 Parganas (North).

The plaintiffs/opposite parties in the said suit have filed an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure. The learned Trial Judge by the latter part of the Order No. 1 dated October 21, 2020 has passed an ad interim order of injunction.

The petitioner has filed an application under Order XXXIX Rule 4 of the Code on December 17, 2020 praying variation and/or modification of the said order on the grounds that the plaintiffs have deliberately suppressed the fact that the suit property, by virtue of a compromise decree passed in an earlier suit, has already been partitioned amongst the co-sharers and some of the defendants of the suit are already dead.

The petitioner is complaining inordinate delay in disposal of the said application and is praying a direction

upon the learned Trial Judge for expeditious disposal of the said application.

It appears from the record that the application for injunction is not yet ready for disposal. The grounds on which the petitioner is seeking modification and/or variation of the ad interim order of injunction are required to be addressed immediately.

The learned Trial Judge therefore is requested to dispose of the said application as expeditiously as possible, preferably within six available effective working weeks of the said Court from the date of communication of this order and in doing so shall not grant any unnecessary adjournment to either of the parties.

C.O. 1856 of 2021 is disposed of with the above terms without any order as to costs.

The petitioner is required to serve the copy of this order upon the learned advocate representing the plaintiffs/opposite parties in the Court below within a week from date.

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.)