

**Calcutta High Court
In The Circuit Bench at Jalpaiguri**

CO 37 of 2021

**Sri Sukumar Das @ Sukumar Ch. Das
Vs.
Sri Tarapada Roy and another**

Mr. Kunaljit Bhattacharjee,
Mr. Abhisek Palit

...for the petitioner

Learned counsel for the petitioner argues that the appellate court, by the impugned order, while at the stage of hearing a prayer for ad interim injunction, dismissed the entire appeal without going into the merits of the same. Although a strong *prima facie* case is made out by the petitioner as regards the jurisdictional error of the appellate court in disposing of the appeal itself without giving opportunity to the parties to address the same on merits, as far as grant of ad interim injunction is concerned, it would not be prudent to pass such an order in the present revisional application, even if entertained, since the trial court made certain specific observations as to an apparent contradiction between the documents submitted by the petitioner and the property-in-question involved in the pre-emption application, which might render

the present revisional application infructuous in any event.

Hence, although the dismissal of the appeal by the impugned order was without jurisdiction, the interest of the petitioner himself would be hampered in the event the present revision is entertained but ad interim injunction is refused at this stage.

It would suffice, for the ends of justice, if the trial court is directed to expedite the hearing of the injunction application itself, which would at least give the petitioner an opportunity to canvass his arguments before the trial court.

Accordingly, CO 37 of 2021 is disposed of by directing the learned Civil Judge (Junior Division) at Jalpaiguri to dispose of the injunction application of the petitioner pending before the said court in connection with Miscellaneous Judicial (Pre-emption) Case No.8 of 2019 as expeditiously as possible, positively within six weeks from the date of communication of this order to the trial court. The petitioner shall communicate this order to the trial court at the earliest for implementation of such direction.

The trial court shall act on the communication of learned advocates and/or server copy of this order without insisting upon prior production of a certified copy thereof.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)