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March 22, 2021.

MNS

**CALCUTTA HIGH COURT
In the Circuit Bench at Jalpaiguri**

C. O. No. 47 of 2021

(Through Video Conference)

**Swapan Das and others
Vs.
M/s. Shri Siva Udyog**

Mr. Jaydeep Kanta Bhowmik

... for the petitioners.

Learned counsel for the petitioners submits that, by the impugned order, the appellate court refused the petitioners' prayer for stay of operation of an injunction order granted by the trial court, which was challenged in the appeal.

Learned counsel submits that the opposite party had not come with clean hands before the trial court and since the injunction order directly affects the livelihood of the petitioners, who run the concerned shops, the appellate court ought to have granted stay of operation as prayed for by the petitioner, keeping in view the plight of the petitioners.

Despite appreciating the urgency on the part of the petitioners, this Court cannot find fault in the order of refusal of stay of operation, since stay of a prohibitory injunction would virtually amount to deciding the miscellaneous appeal itself without hearing the opposite party, who obtained the injunction order from the trial court.

However, keeping in mind the impact of the injunction on the livelihood of the petitioners, the Additional District Judge ought to expedite the hearing of the miscellaneous appeal.

Accordingly. C. O. No. 47 of 2021 is disposed of by requesting the Additional District Judge, Second Fast Track Court, Alipurduar, to dispose of Miscellaneous Appeal No. 01 of 2021 pending in the said court as expeditiously as possible, preferably within one month from the date of communication of this order to the said court.

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

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on their usual undertaking.

(Sabyasachi Bhattacharyya, J.)