

13.05.2022
Item No.183
Ct. No.7
CHC
(disposed of)

C.O.12 of 2022

**Sree Sree Ananda Moyee Dakshina Kalimata
Thakurani & anr.**

Vs.

Sri Satyendra Nath Chakraborty & ors.

Mr. Arif Ali
...for the petitioners

The subject-matter of challenge in this revisional application is against the order dated 22nd December, 2021, passed by learned District Judge, at Alipore, South 24 Parganas, in Misc. Appeal No.272 of 2021 refusing to grant ad interim order of injunction.

Mr. Ali, learned advocate appearing for the petitioners/appellants submits that though the court below by order dated 23rd August, 2012, was pleased to pass an order restraining the defendant nos.1 to 6 from making any construction, and from changing nature and character of the suit property till disposal of the suit, but no order with regard to the possession of the suit property has been passed, and as a result of which there is chance of creating third party interest in respect of the suit property, which is nothing but a debottar property, by necessary instrument upon receiving valuable consideration.

Since the suit property is debottar, learned advocate for the petitioners proposes for an order so

that no third party interest could be created in respect of the suit property till the disposal of the pending appeal, otherwise preservation of the debottar property would be at a stake.

No prior notice upon opposite parties is considered to be necessary in view of the submission disclosed.

Since there is already an ad interim injunction passed by the trial court against the defendants, the Court believes that no harm would be caused to the other sides, if such proposal, as advanced, is accepted simply for the interest of preservation of the debottar property. If any order is passed regarding creation of third party interest pending decision of the appeal, there would be no prejudice caused to either of the parties to this case. Accordingly, the revisional application be disposed of.

Let there be an order directing both the parties not to create any third party interest in respect of the suit property, mentioned in the schedule to the plaint till the decision is reached in connection with Misc.Appeal No.272 of 2021.

Learned District Judge, South 24 Parganas, at Alipore, in Misc. Appeal No.272 of 2021 is requested to ensure expeditious disposal of the pending appeal, providing sufficient opportunity of hearing to either of the parties to this case, but without granting any

unnecessary adjournment, unless it is extremely unavoidable.

Petitioners are given liberty to raise all such points, as disclosed in the revisional application, at the time of final hearing of the Misc. Appeal, and all such points may be resolved by the court below in terms of the provisions available against the order of the trial court, which was carried in Misc. Appeal.

Petitioners are directed to make communication of this order to the learned court below as well as to the opposite parties and their advocate in the court below.

With this observation/direction, the revisional application stands disposed of.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)