

11.02.2022
Ct. 21
D/L 56
ab

C.O. 36 of 2022
(Via Video Conference)

West Bengal Housing Board
-Vs-
Kajal Jana & Ors.

Mr. Kishore Datta,
Mr. Anirban Ray,
Mr. Shehashis Sen,

... for the petitioner

Mr. Kishore Datta, learned Senior Advocate appears for the petitioner.

Record shows that the notice of this application has not been served on the opposite parties.

The petitioner by filing the present application under Article 227 of the Constitution of India has prayed for expeditious disposal of the application under Section 151 of the Code of Civil Procedure filed by the petitioner against the ad-interim order of injunction passed in connection with Title Suit No. 444 of 2019, pending before the learned Civil Judge (Senior Division), 1st Court at Howrah.

The learned advocate appearing for the petitioner draws the attention of this Court to the order passed by a coordinate Bench of this Hon'ble Court in C.O. 1621 of 2021 on 17.09.2021, whereby the Hon'ble coordinate Bench was pleased to direct the learned Civil Judge (Senior Division), 1st Court at Howrah to dispose of the said application under Section 151 of the Code of Civil Procedure filed by the petitioner, probably filed under Order 39 Rule 4 of the Code of Civil Procedure.

Filing of the present application implies that the learned Court below has failed to comply with the direction given by the Hon'ble coordinate Bench of this Court on 17.09.2021.

Having regard to the nature of relief claimed by the petitioner, being a prayer for expeditious disposal of the interlocutory application, I do not find any need to serve notice of the present application on the opposite parties and it is not likely to cause any prejudice to the interest of the opposite parties. Therefore, service of notice upon the opposite party is dispensed with.

The learned Civil Judge Civil Judge (Senior Division), 1st Court at Howrah, is directed to dispose of the application under Section 151 of the Code of Civil Procedure filed by the petitioner against the ad-interim order of injunction or the application under Order 39 Rule 4 of the Code of Civil Procedure in Title suit No. 444 of 2019 within 15.02.2022, the date which is fixed by the learned Court below for hearing of the matter, as per submission of the learned advocate for the petitioner or within a month from the date of communication of this order, without granting any adjournment whatsoever to any of the parties.

The learned advocate for the petitioner also submits that the plaintiffs/opposite party Nos. 1 to 4 has filed the Title Suit No. 444 of 2019 without complying Section 40 of the West Bengal Housing Board Act, 1972 and prays that necessary direction may be given to the learned Court below to consider the said issue also at the time hearing of the application under Section 151 of the Code of Civil Procedure or the application under Order 39 Rule 4 of the Code of Civil Procedure.

The learned Civil Judge Civil Judge (Senior Division), 1st Court at Howrah is further directed to

consider the said issue while disposing of the abovementioned application filed by the petitioner.

Accordingly, the revisional application being **C.O. 36 of 2022** is disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order duly downloaded from the official website of this Court.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon compliance of all formalities.

(**Kesang Doma Bhutia, J.**)