

14.02.2022
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C.O. 170 of 2022
(Via Video Conference)

Ramesh Kumar
-Vs-
Sudama Pandit & Ors.

Mr. Souman Kumar Roy,
... for the petitioner

Mr. Animesh Paul,
Mr. Syed Owasis Ali,
... for the opposite party No. 1

Mr. Soumen Kumar Roy, learned advocate appears for the petitioner. He files a copy of notice showing due service upon the learned advocate of the caveator/opposite party No. 1.

Mr. Animesh Paul, learned advocate appears for the opposite party No. 1.

The revisional application is taken up for hearing.

The petitioner by filing the present application under Article 227 of the Constitution of India has challenged the order dated 22.12.2021 passed by the learned Additional District Judge, Fast Track Court-II at Howrah, in Misc. Appeal No. 123 of 2021 whereby the learned Court below was pleased to stay the ad-interim order of injunction passed by the learned Civil Judge (Junior Division), 2nd Court, Howah in Title Suit No. 1273 of 2021 on 07.12.2021.

The learned advocate appearing for the opposite party No. 1 files bunch of documents showing that how the present petitioner has misused the process of the Court.

From those documents it appears the opposite party No. 2 herein, being the proprietor of Zed Construction has filed Title Suit No. 647 of 2021 before the learned Civil Judge (Junior Division), 2nd Court at Howrah, against the present opposite party No. 1, Sudama Pandit, for declaration and injunction in respect of one hotel and restaurant under the name and style of “*ASIN INN*” situated at Premises No. 10, Sitanath Banerjee Lane under Police Station Shibpur, District- Howrah.

After institution of such suit by present OP no.2, the present petitioner has filed Title Suit No. 604 of 2021 against the Zed Construction, the present OP no.2, Sudama Pandit the present OP no.1, and Saunack Dasgupta the present opposite No. 3 before the learned Civil Judge (Senior Division), 3rd Court at Howrah for declaration and mandatory injunction restraining the present opposite parties from taking forceful possession of the same suit schedule property, which is the subject matter of Title suit No. 647 of 2021, filed by the Zed Construction against the Sudama Pandit, the opposite party No. 1 herein, in the Court of learned Civil Judge (Junior Division), 2nd Court at Howrah.

In such Title Suit No. 604 of 2021 the present petitioner has sought injunction against the present opposite parties and which the learned Court rejected by passing order dated 22.9.2021.

Therefore, when the present petitioner could not obtain any favourable order from the learned Court of Civil Judge (Senior Division), 3rd Court at Howrah, then he has filed Title Suit No. 1273 of 2021 before the learned Civil Judge (Junior Division), 2nd Court at Howrah in respect of the same suit schedule property covered by the earlier two suits against the present opposite parties seeking the same relief by suppressing

about pendency of other two suits on the same subject matter and in respect of same set of parties.

Considering the above facts, this Court finds that the plaintiff/petitioner has abused the process of law and adopted mal practice when he was unable to obtain any order in his favour. Therefore, this Court is of the view that the plaintiff/petitioner, who has adopted malpractice, is not entitled to get any equity relief from this Court. Thus this Court does not find any reason to set aside the order impugned passed by the lower appellate court in Misc. Appeal No. 123 of 2021.

Accordingly, the revisional application being C.O. 170 of 2022 is dismissed with exemplary cost of Rs. 5,000/- payable in the account of the Legal Aid Services Authority, Howrah.

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.**)