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C.O. 223 of 2022

**Sri Somnath Dutta & Anr
Vs
Sri Pratim Kumar Daw**

Mr. Siva Prasad Ghose,
Mr. Chandra Bhanu Sinha,
Mr. Rohit Kumar Shaw,
Ms. Kajol Chattopadhyay, ... For the petitioners.

Mr. Siddhartha Banerjee,
Ms. Juin Dutta Chakraborty,
Mr. Indrajit Mitra,
Mr. Sudipta Nayan Ghosh,
... For the opposite party.

A direction to secure expeditious disposal of injunction application under Order 39 Rule 4 of the Code of Civil Procedure read with Section 151 of the Code of Civil Procedure, is the ultimate relief sought for in this case.

Mr. Siva Prasad Ghose, learned advocate appearing for the petitioners/defendants submits that petitioner has been suffering ad interim order of injunction. The petitioner having suffered interim order of injunction, already took out an application under Order 39 Rule 4 of the Code of Civil Procedure seeking modification and/or variation of the interim order of injunction already granted in this case, which is still pending.

It is also contended by the petitioners that during the continuance of ad interim order of injunction, and also during the hearing of temporary

injunction application, an application under Order 26 Rule 9 praying for local investigation has been filed by the opposite party/plaintiff.

The only contention expressed by the learned advocate appearing for the petitioners is against the delay caused in the disposal of temporary injunction application coupled with an application under Order 39 Rule 4 of the code of Civil Procedure. Incidentally, the learned advocate appearing for the petitioners, however submits that the prayer for local investigation commission under Order 26 Rule 9 of the Code of Civil Procedure, ought to have been made, if at all needed, immediately after being favoured with an order of ad interim order of injunction.

Mr. Siddhartha Banerjee, learned advocate appearing for the opposite party/plaintiff submits that till date the prayer for local investigation commission has not yet been disposed of, which needs to be disposed of so as to protect the possession of parties involved in this case.

Having considered the submissions of both the sides, the pending interlocutory applications needs to be disposed of.

Accordingly, learned Judge, XIIth Bench, City Civil Court at Calcutta in Title Suit No. 1189 of 2021 is requested to ensure expeditious disposal of

application for temporary injunction read with petition under Order 39 Rule 4 C.P.C., and application for local investigation under Order 26 Rule 9 of the Code of Civil Procedure filed by the opposite party/plaintiff, providing sufficient opportunity of hearing to either of the parties to this case, but without granting unnecessary adjournment, unless it is extremely unavoidable.

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

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

(Subhasis Dasgupta, J)