

16.11.2022
Item No.3
Ct. No.7
CHC
(disposed of)

C.O.451 of 2022

Sk Majnu Hossain & anr.

Vs.

**Faridpur Jama Masjid represented through Sk
Abdul Hossain & ors.**

Ms. Sudeshna Basu Thakur,
Ms. Upanita Das

...for the petitioners

Affidavit-of-service furnished by the petitioners be
taken on record.

Subject-matter of challenge in this case is against
the rejection of a prayer for ad interim injunction in
Misc. Appeal No.02 of 2022, of learned Civil Judge
(Senior Division), 2nd Court, at Asansol, preferred
against the order dated 16th December, 2021, by
learned trial Judge in Title Suit No.458 of 2020,
declining to grant any injunction under Order 39 Rule
1 and 2 C.P.C.

Ms. Sudeshna Basu Thakur, learned advocate
appearing for the petitioners, while assailing the
impugned order, submits that the court below in
appeal has not duly appreciated the threat of
dispossession suffered by the petitioners at the
instance of the opposite parties, and mere threat of
dispossession would be sufficient enough to pass an ad
interim order of injunction against the opposite party.

The admitted case is that opposite parties/defendants have been taking steps for getting their names recorded before the appropriate authority in excess of their share, they actually held in the subject property, and that has resulted the very substratum of this pending litigation.

Without any controversy, both the parties are in joint possession of the subject property.

In context with such submission, learned advocate appearing for the petitioners proposes for granting an order of *status quo* till the decision of the suit otherwise, the petitioners may be put to suffer threat of dispossession without any just reasons.

It is not clear whether the respondents have entered appearance in the pending appeal. The evidence of the suit is yet to start so far as trial of the suit is concerned.

In a situation like this, it would be not wise to interfere with the impugned order at this stage, merely upon showing the pendency a case before concerned Land Reforms Authority.

The points raised by the petitioners may be raised in course of the hearing of appeal, and if such points are raised, that may be duly resolved by the court below in appeal in accordance with law at the time of final hearing of this Misc. Appeal, providing sufficient opportunity of hearing to both the parties.

Since, there is strong apprehension of dispossession, as submitted by the petitioners, it is, therefore, felt necessary to pass a direction upon the court below in appeal to decide the appeal expeditiously as possible, preferably before the end of March, 2023, upon securing presence of the opposite parties/respondents.

This order is passed without entering into the merits of the case and without prejudice to the rights and contentions of the parties.

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

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

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.)