

24.03.2022  
Item No.29  
Ct. No.7  
CHC  
(disposed of)

**C.O.515 of 2022  
(Physical Hearing)**

**Dr. Subhajit Roy & anr.  
Vs.  
Sri Sainen Mandal & anr.**

Mr. Sanjay Mukherjee  
...for the petitioners

Liberty is given to learned advocate for the petitioners to correct the cause-title of this revisional application.

In view of the submission disclosed by the learned advocate for the petitioners, a direction to secure expeditious disposal of temporary injunction application is the ultimate prayer in this revisional application.

Admittedly, the suit was instituted in the year 2021, and petitioners/defendants have been made to suffer ad interim order of injunction. To challenge the temporary injunction application, the defendants/petitioners entered their appearance on 11<sup>th</sup> January, 2022, and filed written objection against the injunction application. Written statement at the instance of the petitioners has already been filed on 8<sup>th</sup> February, 2022. The suit is admittedly on a claim of easementary right, filed by the opposite

parties/plaintiffs. The Local Inspection Commissioner already conducted his commission which the petitioners allowed it to be held, though the order of Commission was passed *ex parte*.

It is contended by the learned advocate for the petitioners that even after conclusion of the Commission Work, the report has not yet been submitted and the learned court below has proceeded to extend the interim order of injunction on the prayer of the opposite parties without hearing out the temporary injunction/application.

In view of the nature of the order proposed to be made, non-service of the notice upon the opposite parties would not cause any prejudice to the opposite parties. Service upon the opposite parties is thus dispensed with.

Accordingly, learned Civil Judge (Junior Division), 2<sup>nd</sup> Court, at Baruipur in Title Suit No.267 of 2021 is directed to ensure expeditious disposal of temporary injunction application under Order 39 Rule 1 and 2 of the C.P.C. with collection of learned Commissioner's report, preferably within twelve (12) weeks from hence, without granting any unnecessary adjournment, unless it is extremely unavoidable.

While endeavouring such exercise, an opportunity of hearing must be ensured to both the parties.

Learned advocate for the petitioners is directed to make communication of this order not only to the learned court below, but also to the opposite parties and their learned advocates appearing in the court below.

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

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

**(Subhasis Dasgupta, J.)**