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C.O. 595 of 2022

**Sri Dilip Kumar Biswas & Ors
Vs
Smt. Mahua Sil**

Mr. Sudip Sarkar,
Mr. Aninda Bhattacharya,
Mr. K. P. Santra, ... For the petitioners.

The subject matter of challenge in this revisional application is against the order dated 31st January, 2022, directing the parties to be present in Court for referring the matter to mediation.

Learned advocate for the petitioners/plaintiffs submits that the prayer for ad interim order of injunction has already been refused, and against the refusal of prayer for ad interim order of injunction, no appeal has since been carried.

It is contended that on the date fixed for injunction hearing, the learned advocate appearing for the opposite party/defendant conceded to the prayer for injunction, proposed by the learned advocate for the plaintiff, having reference to his application for temporary injunction under Order 39 Rule 1 and 2 of the Code of Civil Procedure, but the injunction application could not be disposed of.

By the order impugned, the Court below instead of disposing of injunction application, passed a direction asking both the parties to ensure their

appearance in the Court on the date stipulated, so that the matter may be referred to mediation, learned advocate for the petitioner argues.

An injunction, according to the learned advocate for the petitioners, is extremely necessary, as there has been attempt of raising construction in the suit property, and unless an injunction order is granted, there will be serious prejudice caused to the petitioners/plaintiffs.

Upon perusal of the impugned order, it appears that the Court below was not prepared to accept the consent expressed by the learned advocate for the opposite party with respect to the prayer for proposed injunction, and thought it to be prudent to secure presence of the parties in his attempt to solve the dispute by way of mediation.

When it is alleged by the learned advocate for the petitioners that an attempt has been there to raise construction in suit property by the opposite party, the instant revisional application may be disposed of giving liberty to petitioners to file an application for pre-ponement of the date, and if any such application is filed, the same shall be resolved in accordance with law, providing sufficient opportunity of hearing to either of the parties to this case.

This order is passed without going into the

merits of the case, and without prejudice to the rights and contentions of the parties.

It is, however, clarified that this would not prevent the Court below to send the matter to mediation for solving the dispute between the parties, or to dispose of the prayer for injunction application in accordance with the provisions of law.

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

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)