

10.03.2022
Ct. 21
D/L 41
ab

C.O. 558 of 2021
(Via Video Conference)

Sk. Boldo @ Sk Abdul Rasid
-Vs-
Morjina Begum

Mr. Sk. Toslim Ali,

... for the petitioner

Mr. Sk. Toslim Ali, learned advocate appears for the petitioner.

The learned advocate for the petitioner files affidavit of service along with postal receipts and track report showing due service on the opposite party.

None appears from the side of the opposite party.

The defendant No. 1/petitioner, being aggrieved by the order permitting the plaintiff/opposite party to repair and to do necessary construction works in respect of structure standing on the suit property on her own cost by the learned Civil Judge (Junior Division) at Amta in connection with Title Suit No. 117 of 2015 on 03.01.2020, has preferred the present application.

The learned advocate appearing for the petitioner/defendant No. 1 submits that the order impugned suffers from illegality as the learned Court

below allowed the plaintiff/opposite party herein to make necessary repair and construction works on her alleged structure standing on the suit property on the basis of the still photographs and without ascertaining whether those still photographs are that of the structure of the opposite party or not.

Perused the impugned order. From the impugned order, it is seen that the plaintiff/opposite party not only intends to repair the construction standing on the suit property but wants to demolish certain portion of the said structure and make new construction on that place.

Prima facie, this Court is of the view how the learned Court below could be so sure that those still photographs are that of the structure belonging to the plaintiff/opposite party. The learned Court below ought to have taken out local inspection of the alleged structure of the plaintiff/opposite party before permitting any such construction works. Apparently, the order impugned suffers from irregularity and is liable to be set aside.

The case is remanded back to the Court below with a direction that before permitting any repair or renovation works in respect of the suit property, over which the order of injunction stands, local inspection of the property should be undertaken to ascertain indeed

the property needs immediate repair otherwise, it is unsafe for human habitation.

With the above observations, the revisional application being **C.O. 558 of 2021** is disposed of.

Interim order, if any, stands discharged.

Connected application, if any, also stands disposed of.

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.**)