

09.11.2022
Item No.7
Ct. No.7
CHC
(disposed of)

**C.O.751 of 2022
IA NO: CAN/1/2022
CAN/3/2022**

**Wonderland Distributors Private Limited
Vs.
Ajay Kumar Singh & ors.**

Mr. Samrat Chowdhury,
Ms. Ranjana Seal
...for the petitioner

Mr. Partha Pratim Roy,
Mr. Dyutiman Banerjee,
Mr. Neil Basu,
Mr. Sankha Biswas
...for the o.p. no.1

The subject-matter of challenge in this case is against the order dated 28th February, 2022, allowing police help for the implementation of an ad interim order of injunction granted by learned Civil Judge (Senior Division), 4th Court, Alipore, South 24 Parganas, in Title Suit No.191 of 2022.

Mr. Chowdhury, learned advocate appearing for the petitioner/defendant no.4 submits that the court below ought not to have granted police help for implementation of an *ex parte* order of injunction, when there has been already an application filed for vacating the order of injunction taking recourse to the provisions available under Section 39 Rule 4 of the C.P.C.

It is thus contended by Mr. Chowdhury that order allowing police help has been unilaterally passed on the strength of a put up petition being filed without making due consideration of the objection of the petitioner/defendant no.4.

Per contra, Mr. Roy, learned advocate appearing for the plaintiff/opposite party no.1 submits that since there was chance of violation of the ad interim order of injunction, a necessity was then arose to seek police assistance for the implementation of order of injunction.

Supporting the order of the court below, Mr. Roy submits that mere filing of petition under Order 39 Rule 4 C.P.C. would not itself be sufficient enough to refute the needs for implementation of an order of injunction, granted *ex parte*, taking assistance of police.

Upon perusal of the impugned order, and also having regard to the submission of both sides, it appears that objection, if there be any, could not be adequately considered by the court below, while granting police assistance. When an application under Order 39 Rule 4 C.P.C. is already filed, the court below ought to have endeavoured to provide an opportunity of hearing to the petitioner.

The impugned order granting police assistance is as such not sustainable, and the same is set aside.

Learned court below is directed to hear out the prayer for police assistance, providing sufficient opportunity of hearing to petitioner/defendant no.4, after causing disposal of injunction application together with application for vacating injunction under Order 39 Rule 4 C.P.C., which may be ensured expeditiously as possible, preferably before the end of January, 2023.

It is, however, clarified that after causing disposal of the injunction application together with the vacating application, if there be any occasion arises for the implementation of the injunction order, that may be considered in accordance with the law in context with the observation made hereinabove, providing an opportunity of hearing to the petitioner/defendant no.4.

Parties are directed to make communication of this order to the court below.

With this observation/direction, the revisional application stands disposed of. The connected applications being CAN/1/2022 and CAN/3/2022 are also disposed of.

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.)

