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C.O. 1248 of 2022

**Aryan Towers Owners' Association & Anr
Vs
Natural Merchants Private Limited & Ors**

Mr. Ayan Banerjee,
Mr. Brotin Kumar Dey,
Ms. Anjana Banerjee, ... For the petitioners.

Mr. Aniruddha Chatterjee,
Mr. Saptarshi Kumar Mal,
Mr. Saptarshi Datta,
... For the Opposite Parties.

The subject matter of challenge in this revisional application is against an order dated 30th April, 2022 passed by learned Civil Judge (Sr. Div), 1st Court, Barasat in Title Suit No. 139 of 2021, directing Madhyamgram Police Station to see that the order of ad interim order of injunction passed in referred case, is not violated by the defendants, and in the event of violation being alleged, render police assistance in accordance with law.

Mr. Ayan Banerjee, learned advocate appearing for the petitioners/defendants submits that for conversion of a common area in respect of some flats to commercial area, causing encroachment to the common areas, the petitioners have already invited a litigation against the opposite parties, and obtained an order of ad interim injunction. In the absence of any regular application being filed praying for extension of

such ad interim order of injunction, the ad interim order of injunction has already been vacated, and a separate application has already been filed praying for restoration of the order granting ad interim order of injunction.

In the meantime, Mr. Banerjee contends that the opposite parties as plaintiffs have lodged a separate suit being Title Suit no. 139 of 2021 before the learned Civil Judge (Sr. Div), 1st Court, Barasat, and obtained an order of ad interim order of injunction on 17th February, 2021.

Mr. Banerjee contends that the order granting ad interim order of injunction was then subsequently carried in appeal before this Court in FMAT 236 of 2021, which has already been disposed of giving liberty to petitioners to apply for vacating ex parte ad interim order of injunction.

Mr. Banerjee disputing with the order impugned granting police assistance submits that the Court below has erroneously granted police assistance for the implementation of the ad interim order of injunction, being oblivious of the previous litigation of the petitioners, instituted against the opposite parties wherein an order of ad interim order of injunction was granted in the previous litigation instituted by the petitioners against the opposite parties.

Per contra, Mr. Aniruddha Chatterjee, learned

advocate appearing for the opposite parties supporting the order of the Court below granting police assistance submits that despite the liberty being granted by this Court in FMAT 236 of 2021, till date, no application for vacating the order granting ad interim order of injunction has been filed by the petitioners. The ad interim order of injunction granted by the Court below in this case, according to Mr. Chatterjee, remained uninterfered with.

Mr. Chatterjee further submits that there is nothing left in the order impugned requiring interference by this Court.

Having considered the submissions of both sides, it appears that the impugned order granting police assistance is an innocuous order directing police to ensure police assistance, in the event of ad interim order of injunction being alleged to have been violated.

Admittedly, there is no case registered against the petitioners alleging violations of the ad interim order of injunction under Order 39 Rule 2A of the Code of Civil Procedure.

As per submission disclosed by either of the parties to this case, the pending injunction application under Order 39 Rules 1 and 2 is now matured one, wherein the petitioners/defendants have already filed written objection against the prayer for injunction.

That being the position, the hearing pending

injunction application under Order 39 Rules 1 and 2 may be expedited.

The impugned order does not call for any interference.

The disposal of the injunction application under Order 39 Rules 1 and 2 of the Code of Civil Procedure in the fitness of the things will streamline the dispute that surfaced in the present litigation.

Accordingly, learned learned Civil Judge (Sr. Div), 1st Court, Barasat in Title Suit No. 139 of 2021 is directed to ensure expeditious disposal of application for temporary injunction under Order 39 Rules 1 and 2 of the Code of Civil Procedure, providing sufficient opportunity of hearing to either of the parties to this case, but without granting unnecessary adjournments, unless it is extremely unavoidable, preferably within a period of ten weeks from the date of communication of this order.

This would not, however, prevent the police to ensure police assistance to opposite parties for the implementation of ad interim order of injunction granted by the Court below on 17th February, 2021, for the peculiarity of circumstances involved in this case in the event of substantial violations being there against ad interim order of injunction, if there be any.

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

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)