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C.O. 1404 of 2022

**Sri Bishnu Sarkar & Ors.
Vs
Sri Nur Hajra & Ors.**

Mr. Arijit Sarkar,
Ms. Prajaaini Das ... For the petitioners.

The subject matter of challenge in this revisional application is against the rejection of a prayer for ad interim order of injunction in Misc Appeal No. 44 of 2022 of Additional District & Sessions Judge, Fast Track 4th Court, Barasat arising out of Title Suit No. 112 of 2022.

Petitioners/defendants have been suffering admittedly ad interim order of injunction passed by Trial Court on 11th April, 2022.

Being aggrieved by the decision of the Trial Court granting ad interim order of injunction, an appeal being Misc Appeal No. 44 of 2022 was preferred. In the referred Misc Appeal, the prayer for stay and/or ad interim order of injunction, as proposed by the petitioners/appellants, was rejected by the Court below, by the order impugned.

Learned advocate appearing for the petitioners submits that there is fair chance of alienation of the suit property, upon misutilising the order of ad

interim order of injunction granted in this case by the Trial Court.

It is contended by the learned advocate for the petitioners that the First Lower Appellate Court has not deeply gone into the facts presented and pressed, and as a result of which there has been erroneous decision reached, while making rejection of the prayer for ad interim order of injunction, as proposed by the petitioners/defendants/appellants.

Upon perusal of the impugned order, it appears that the First Lower Appellate Court declined to interfere with the order of the Trial Court granting ad interim order of injunction, for the petitioners/appellants having failed to satisfy the possession of petitioners over the suit property.

The general diary entry lodged with the concerned police station by the petitioners in apprehension of alleged dispossession was also considered by the First Lower Appellate Court , and upon consideration of the entire facts and circumstances of the case declined to interfere with the ad interim order of injunction of trial Court granting stay, or even to favour an ad interim order of injunction as proposed by the petitioners.

Admittedly, the appeal is pending, wherein the opposite parties/plaintiffs have entered their appearance. That being the position, the controversy

that surfaced between the parties may be best addressed by the First Lower Appellate Court in the referred Misc Appeal.

The revisional application is thus disposed of directing the First Lower Appellate Court to ensure expeditious disposal of appeal referred hereinabove, providing sufficient opportunity of hearing to either of the parties to this case, but without granting unnecessary adjournments, unless it is extremely unavoidable.

While endeavouring such exercise, the point now raises in support of the alleged possession of the petitioners together with his apprehension of alienation of the suit property in context with the scheduled property may be duly addressed to by the Court below giving an opportunity to the other side for controverting the same at the time of final hearing of this appeal.

Such exercise may be completed preferably within four months from the date of communication of this order.

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 parties and the opposite parties.

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)