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AGM 2022
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C.O. 1439 of 2022

**Sk. Soleman & Ors
Vs
Gautam Mukharjee**

Mr. Surya Prosad Chattopadhyay,
Mr. Sohail Tarafdar,
... For the petitioners.

Mr. Soumik Ganguly,
Mr. Avil Kumar Das,
Mr. Sourath Nandy,
... for the opposite party.

The impugned order passed in Misc Appeal No. 41 of 2021 of learned Additional District Judge, 5th Court Purba Burdwan affirming the order of the trial Court granting injunction is under challenge in this case.

Admittedly, the trial Court on the prayer of the opposite party/plaintiff granted ad interim order of injunction, which was finally disposed of after a contested hearing granting injunction.

Against the order of injunction being granted by the trial Court, an appeal was carried before the first Lower Appellate Court being Misc Appeal No. 41 of 2021.

Mr. Surya Prosad Chattopdahyay, learned advocate appearing for the petitioners submits that petitioners are in possession of the suit property on the strength of their title deed. It is contended that opposite party/plaintiff upon producing a manufactured title

deed has claimed his right, title and interest over the suit property, what is under possession of the petitioners.

The title deed so produced by the opposite party apparently bears many contradictions, and it has been recorded by the appellate Court in the observation part of the judgment.

In view of such injunction order being granted by the trial Court, and subsequently affirmed by the appellate Court, petitioners are in difficulty to repair their property, what is extremely needed. Learned advocate has only proposed for giving a liberty so that pending decision of the suit, the property under the possession of the defendant may be subjected to repairing.

Mr. Soumil Ganguly, learned advocate appearing for the opposite party/plaintiff disputes with the submission advanced by the petitioners, alleging that the appellate Court has gone into all the points raised and observed that without holding the trial, the controversy thus raised cannot be decided. The learned Inspection Commission's report was also taken into account by the first Lower Appellate Court.

Having considered the submission of both the sides, it appears that both the Courts below were satisfied in granting injunction after testing the case in

context with the principles applicable for granting injunction. In a situation like this, the concurrent findings thus reached being based on due appreciation of the facts and circumstances presented, would remain unaltered.

Upon perusal of the impugned judgment, it appears that there is no error manifest or apparent on the face of the record, sufficient enough to reveal that there has been a grave injustice or gross violation of justice has been occasioned thereby.

The impugned order as such does not call for any interference.

With this observation and direction, the revisional application stands disposed of.

This would not, however, prevent the petitioners to take recourse to the provisions of the law, if there be any, for the protection of their properties taking appropriate action in accordance with law.

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Subhasis Dasgupta, J)