

22.07.2022
Item No.12
Ct. No.7
CHC
(disposed of)

C.O.1447 of 2022

Shri Ranendra Kumar Roy Halder
Vs.
Shri Shri Brindiban Chandra Jew Math

Mr. Tapash Kumar Bhattacharya,
Mr. Aviroop Bhattacharya
...for the petitioner

The subject-matter of challenge in this revisional application is against an order passed in Misc. Appeal No.03 of 2022, dismissing the same, and thereby affirming the order dated 8th December, 2021, passed in Title Suit No.56 of 2017 of learned Civil Judge (Junior Division), 2nd Court, Hooghly.

Mr. Bhattacharya, learned advocate appearing for the petitioner submits that initially the petitioner being plaintiff was favoured with an order of ad interim injunction. Subsequently, after a contested hearing, ad interim order of injunction granted by the trial court was vacated. The appeal was then carried by Misc. Appeal No.03 of 2022, which was finally dismissed on contest after affirming the order of trial court dated 08.12.2021, passed in Title Suit No.56 of 2017.

Mr. Bhattacharya, learned advocate appearing for the petitioner submits that petitioner is in possession of the suit property, and in support of his possession,

there are record of rights pertaining to the petitioner over the suit property.

The contention, thus, expressed by the learned advocate for the petitioner is that the first lower appellate body has not properly gone into the question of possession, and has mechanically decided the appeal without truly having understood the purport of the entry made in the record of rights standing in the name of the petitioner/plaintiff.

It is contended further by the learned advocate for the petitioner that though the petitioner is in possession of the suit property, but there is fair chance of dispossession of suit property at the instance of the opposite party.

Having considered the submission of the learned advocate for the petitioner, it appears that petitioner claims to be in possession of the suit property, and he has further claimed to have recorded his possession in the concerned record of rights.

Article 227 of the Constitution of India is exercised for keeping subordinate courts within the bounds of their jurisdiction.

Upon perusal of the impugned order passed by the first lower appellate body, it appears that there is neither any patent error manifest, or apparent on the face of record, nor any grave injustice or gross failure of justice has been occasioned. When injunction

application has already been disposed of by the trial court, and subsequently, affirmed by the first lower appellate body, this court perceives the suit to be mature enough to ensure expeditious disposal. In that view of the matter, the suit may be disposed of expeditiously providing sufficient opportunity of hearing to either of the parties to this case.

It is, however, clarified that during the course of the trial, the petitioner/plaintiff should be provided with sufficient and adequate opportunity to produce evidence in support of his alleged possession over the suit property supported by document, if there be any.

This would not, however, prevent the opposite party to controvert the evidence to be adduced by the plaintiff in support of his alleged possession over the suit property.

As has already been discussed that in the absence of any grave injustice or grave failure of justice, this Court should not interfere with the order passed by the first lower appellate court exercising its authority under Article 227 of the Constitution of India, so the impugned order does not call for any interference.

The revisional application, is, thus disposed of directing the court below to ensure expeditious disposal of the suit providing sufficient opportunity of hearing to either of the parties to this case, but without

granting any unnecessary adjournment, unless it is extremely unavoidable.

Petitioner is directed to make communication of this order to the learned court below as well as to the opposite party and his learned advocate in the court below.

With this observation/direction, the revisional application stands 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.)