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C.O. 1623 of 2022

**Sabur Sk. & Ors
Vs
Sarifan Bibi**

Ms. Manali Biswas, ... For the petitioners.

The rejection of a prayer for ad interim order of injunction in connection with Miscellaneous Appeal No. 34 of 2022 by learned District Judge, Murshidabad is under challenge in this revisional application.

Petitioners assail the order dated 10th May, 2022 in connection with pending appeal referred above, submitting that the First Lower Appellate Court has not appropriately gone into the facts and circumstances presented and pressed, and there has been erroneous decision reached by the First Appellate Court, while rejecting the prayer for ad interim order of injunction.

Admittedly, the pending litigation is for cancellation of a deed, allegedly executed by one, who is none but husband and father of opposite party respectively.

Admittedly, the Trial Court has not granted any ad interim order of injunction in this case.

An appeal was then carried against the rejection of prayer for ad interim order of injunction.

The contention thus expressed by the petitioners/plaintiffs is that unless some interim protection is granted, the subject property may be subjected to a further transfer causing serious prejudice to the valuable rights of the plaintiffs/petitioners.

The case presented by the petitioners is that one Abdul Hossain, being father and husband of opposite party nos. 1 and 2 was unconscious being attacked with cardiac infraction, and Abdul Hossain had no physical and mental capacity to execute the deed. The deed, sought to be cancelled by the petitioners, is a product of fraud being perpetrated by the opposite parties in this case.

Some medical documents pertaining to the treatment extended to deceased Abdul Hossain were produced.

The dispute thus surfaced between the parties is with regard to the execution of deed, allegedly made by one Abdul Hossain being the father and husband of opposite party Nos. 1 and 2 respectively.

When there is chance of alienation, as submitted by the learned advocate for the petitioners, the instant revisional application be disposed of directing the Court below to hear out the pending appeal, after causing disposal of the pending interlocutory applications, if there be any, providing

sufficient opportunity of hearing to either of the parties to this case, preferably within a period of eight weeks from the date of communication of this order, but without granting unnecessary adjournments, unless it is extremely unavoidable.

This would not, however, prevent the petitioners to raise all such points and place the documents connected with the pending misc appeal, irrespective of the rejection of prayer for ad interim order of injunction by the First Lower Appellate Court at the interlocutory stage.

The learned Court below (First Lower Appellate Court) is requested to address the points, to be raised by the petitioners in connection with the pending appeal, and resolve the same within the peripheries of misc appeal in accordance with the provisions of law.

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 party and the opposite party.

This order is passed without entering into the merits of the case, without prejudice to the rights and contentions of the 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)