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C.O. 1815 of 2022

**Priti Banerjee & Ors
Vs
Sri Arihant Manot**

Mr. Shiba Prasad Ghosh. ... For the petitioner.

The subject matter of challenge is against the dismissal of Misc. Appeal in Misc. Appeal No. 16 of 2021 passed by learned Additional District & Sessions Judge, 1st Court Sealdah.

Mr. Shiba Prosad Ghosh, learned advocate appearing for the petitioners submits that against the refusal of ad interim order of injunction, an appeal was carried vide Misc Appeal No. 16 of 2021, as referred hereinabove.

It is submitted by learned advocate for the petitioners that the Court below in appeal has not properly gone into the facts presented and pressed, and mechanically disposed of the Misc Appeal thereby dismissing the appeal.

It is further contended that principles applicable to the prayer for injunction have also not been gone into by the Court below, and it is purely decided upon viewing existence of separate suit pending between the parties, being T.S. No. 115 of

2020 over the selfsame property.

As per submission disclosed, the application for temporary injunction has already been posted for hearing by the Court below, that is on 24th August, 2022.

In view of the pendency of application for temporary injunction before the court below, which has already been set for hearing on 24th August, 2022, this Court should not interfere with the impugned order.

In course of hearing of injunction application, the principles of granting injunction may be considered in context with the facts presented and set up already in the plaint, together with the objection if there be any, filed against the injunction application.

In the absence of any patent or apparent error manifest on the face of record, it can hardly be believed that there has been error committed in the jurisdiction exercised by the Court below.

However, petitioners are given liberty to raise all such points supported by documents relatable to the prayer for injunction, to facilitate decision independently by the Court below upon adhering to the principles operative over the field for granting injunction.

It is thus clarified that the Court below is to

return an independent decision in context with the materials placed by the parties to this case.

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.

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)