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C.O. 1904 of 2022

**Adhar Porel & Ors.
Vs
Santu Roy & Ors.**

Mr. Uddipan Banerjee,
... For the petitioners.

The subject matter of challenge in this revisional application is against the order dated 4th June, 2022 passed by the learned Civil Judge (Junior Division), Amta, Howrah, in Title Suit No. 63 of 2020, rejecting an application under Section 151 of the Code of Civil Procedure, for restoration of ad interim order of injunction, which already got vacated.

Learned advocate appearing for the petitioners/plaintiffs submits that on the prayer of the petitioners, the Trial Court granted ad interim order of injunction on 26th August, 2020, which was vacated by the court below on 23rd February, 2022, for no application being filed proposing for extension of interim order.

It is submitted by the learned advocate for the petitioners that due to the proliferation of Covid-19, formal application for extension of the interim order could not be filed before the Court below.

It is thus contended that vacating of interim order is on technical ground, but not on merits.

It is further contended by the learned advocate

for the petitioners that the Court below ought to have restored the order of ad interim order of injunction, when it is basically an order vacating ad interim order of injunction on technical ground.

Having considered the submission of learned advocate for the petitioners, it appears that in aid of Section 151 of C.P.C., the petitioners have proposed for restoration of ad interim order, which was vacated on 23rd February, 2022.

The settled proposition is that there cannot be any automatic extension of interim order, unless an application is filed setting forth the grounds for extension of the interim order. That exercise has not been done.

As per submission disclosed by the learned advocate for the petitioners, the original application under Order 39 Rules 1 and 2 praying for temporary injunction has not yet been disposed of.

That being the position, the revisional application is disposed of directing the Court below to hear out the injunction application, providing sufficient opportunity of hearing to either of the parties to this case, but without granting unnecessary adjournments, preferably within a period of eight (08) weeks from the date of communication of this order.

This would not, however, prevent the Court

below to consider application for local inspection independently and the injunction application may be disposed of, if necessary, upon doing necessary consideration of the learned Commissioner's report.

Petitioners are directed to make communication of this order to the learned Court below.

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)