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04.04.2022
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO No. 1759 of 2021

Banasri Dhar Dey @ Banshi Dhar Dey
-versus-
Phanindra Nath Chatterjee & ors.

Mr. Kushal Chatterjee,
Mr. Iftekar Munshi, ... for the petitioner.

Mr. Sourav Sen,
... for the opposite parties.

The revisional application under Article 227 of the Constitution of India is at the instance of the defendant no. 6 in a suit for declaration of title and injunction being Title Suit No. 361 of 2019 pending before the 2nd Court of learned Civil Judge (Junior Division), Barrackpore, District : 24 Parganas (North).

The learned Trial Judge on an application filed by the plaintiffs under Order XXXIX Rules 1 and 2 of the Code passed an ad interim order of injunction on September 17, 2019.

The petitioner aggrieved by the said order preferred the connected Misc. Appeal No. 36 of 2021.

The appeal Court below by the order impugned dated September 3, 2021 has dismissed the said appeal holding that it is barred by limitation since the initial ad interim order of

injunction was passed two years prior to filing of the said appeal.

Mr. Kushal Chatterjee, learned counsel appearing on behalf of the petitioner, strenuously argued that since the appeal was also against the order extending the initial ad interim order of injunction, as such the appeal Court should not have dismissed the entire appeal as barred by limitation.

Mr. Sourav Sen, learned counsel appearing on behalf of the opposite parties, objects to the said contention of Mr. Chatterjee and submits that the subsequent orders extending the said ad interim order of injunction were not challenged in the said appeal.

Be that as it may, the appeal was against an ad interim order of injunction, the application for injunction is pending disposal before the learned Trial Judge, this Court is of the opinion that justice would be sub-served if the said pending application for injunction is directed to be disposed of expeditiously.

CO 1759 of 2021 is disposed of by requesting the learned Trial Judge to dispose of the said application for injunction as expeditiously as possible preferably within a period of one available effective working month of his Court from the date of communication of this order and in

doing so shall not entertain the prayer of the parties for any unnecessary adjournment.

The learned Trial Judge, while disposing the said application shall take into consideration the mandate of Order XXXIX Rule 3A of the Code.

It is made clear that the parties are required to exchange their affidavits on the said application within one week from date.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance of all requisite formalities.

(Biswajit Basu, J.)