

03.11.2022
Item No.13
Ct. No.7
CHC
(disposed of)

C.O.2082 of 2022

Smt. Tanusree Ojha & ors.

Vs.

**Haniman Housing and Development Private
Limited, A Real Estate and Promoting Co, being
represented by its Directors Sri Ashok Kumar Pal
& ors.**

Mr. Firdous Samim,
Ms. Gopa Biswas

...for the petitioners

Mr. Ganesh Shrivastava,
Mr. Sukanta Das

...for the o.p. nos.3 and 4.

The subject-matter of challenge is against the order dated 2nd May, 2022, staying the operation of the order dated 21st March, 2022, passed by learned Civil Judge (Junior Division), 1st Court, Paschim Medinipur, in Title Suit No.93 of 2022, granting an order of *status quo*, while disposing of an application for temporary injunction under Order 39 Rule 1 and 2 C.P.C.

Ms. Gopa Biswas, learned advocate appearing for the petitioners submits that the trial court, while disposing of application for temporary injunction, has granted an order of *status quo*. The court below in appeal reversed such order, thereby staying the operation of order, passed by the trial court granting *atatus quo*. The reasons assigned by the court below in appeal are not sufficient enough to justify an order granting stay against

an order of *status quo* already passed by the trial court in a contested hearing for temporary injunction application.

It is contended by the learned advocate for the petitioners that in view of the stay of the order of *status quo*, there is fair chance of creation of third party interest, and in the event of third party interest being created touching the suit property, there may be future complication.

Mr. Shrivastava, learned advocate appearing for the opposite party nos.3 and 4 submits that the purchase of the opposite party nos.3 and 4 is much earlier than the purchase of the petitioners.

It is further submitted by Mr. Shrivastava that the court below in appeal has already fixed the matter on 16th December, 2022. The petitioners have already entered appearance in the pending appeal, and written objection has already been submitted.

That being the position, the pending appeal is quite ready for final hearing. When the appeal is ready for final hearing, this Court should not intervene into the matter. All points raised by the petitioners are left open for decision before the court below in appeal, and petitioners may raise those points at the time of final hearing of this appeal.

The revisional application is thus disposed of giving liberty to petitioners to raise all such points before the court below in appeal, and if any point is raised, that

may be resolved by the court below in appeal in accordance with the law giving an opportunity of hearing to opposite parties.

Since 16th December, 2022 is the date scheduled for appeal hearing, the court below is requested either to hear out the appeal on the date already scheduled for the purpose, and dispose of the appeal in accordance with the law, or if for any reasons whatsoever, the same could not be done, the pending Miscellaneous Appeal may be peremptorily disposed of within 22nd December, 2022, providing sufficient opportunity of hearing to either of the parties to this case.

It is however, clarified that all points are kept open, and left to be decided by the court below in appeal.

Parties are directed to make communication of this order to 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.)