

12.12.2022
Item No.3
Ct. No.7
CHC
(disposed of)

C.O.2205 of 2022

Smt. Punam Das
Vs.
Smt. Ashima Roy & anr.

Ms. Tiana Bhattacharya,
Mr. Asish Bhattacharya
...for the petitioner

Mr. Joy Chakraborty,
Mr. S. Dinda
...for the opposite party no.1

Subject-matter of challenge in this case is against the order dated 8th June, 2022, passed by learned Civil Judge (Junior Division), at Bidhannagar in Title Suit No.209 of 2013, allowing repairing work on the prayer of the opposite party no.1/plaintiff.

Learned advocate representing the Caveator/opposite party no.1 upon filing supplementary affidavit discloses that the repairing work has been completed on 29th June, 2022, though the white wash and colour paint could not be made as yet for the financial crisis of the Caveator/opposite party no.1.

Ms. Tiana Bhattacharya, learned advocate appearing for the petitioner disputes with the impugned order submitting that there has been no commission work previously held in order to ascertain

the extent of the damage, if there be at all, needing urgent repairing, because it is a pathway leading to the house of the opposite party no.1, and without ascertaining the need of repairing, there may not be any repairing work allowed in a blanket manner.

It is also contended by the learned advocate for the petitioner that there has been an ad interim order of injunction granted by the trial court directing the parties to maintain *status quo*. When there has already been an order of *status quo*, the repairing work should not have been allowed to be made.

Petitioner has also challenged the injunction application upon filing objection, and till date, the injunction application has not yet been heard out, learned advocate for the petitioner argues.

Having considered the submission of both sides, it appears that without ascertaining the extent of the damage suffered by the suit property, in aid of a report of learned Inspection Commissioner, there has been a repairing work allowed by the court below, which is under challenge in this case. When repairing work has already been concluded on 29th June, 2022, the legality of the repairing work at this moment may be raised before the court below upon filing a supplementary affidavit to the objection already filed by the petitioner against the injunction application within fortnight from

the date of communication of this order to the court below.

Such point, if raised, by the petitioner may be decided by the court below, while hearing the matter for injunction, which may be expeditiously concluded, preferably before the end of March, 2023 without granting any unnecessary adjournment, unless it is extremely unavoidable.

The fate of the repairing work, as such, is left to be decided by the court below.

With this observation/direction, the revisional application stands disposed of.

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

Parties are directed to make communication of this order to the court below.

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.)