

01.03.2022
(S/L-16)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 1923 of 2021

Sujit Dutta & Ors.

-Vs-

Ram Chandra Shaw

Ms. Shebatee Datta,

.... For the Petitioners.

Mr. Sanjay Mukherjee,

.... For the Opposite Party.

Affidavit-of-service filed in Court today be kept with the record.

The matter has been brought to the list at the instance of the petitioners for extension of interim order.

However, by the consent of the parties, the revisional application is taken up for consideration and disposal.

The defendants in a suit for declaration of title and injunction are the petitioners of the present revisional application under Article 227 of the Constitution of India and it is directed against the order dated September 16, 2021 passed by the 3rd Court of learned Civil Judge (Senior Division), Howrah, in the said suit being Title Suit No. 574 of 2021.

The learned Trial Judge by the order impugned has allowed an application filed by the plaintiff/opposite party under Order XXXIX Rule 7 of the Code of Civil Procedure for holding local inspection of the suit property ex-parte.

The order is not supported by any reason; moreover, the defendants since have already entered appearance, allowing an application of such nature without notice to the defendants is not warranted.

The order impugned, for the aforesaid reason, is not sustainable and is accordingly set aside.

The learned Trial Judge is requested to dispose of the said application afresh in accordance with law, as expeditiously as possible, preferably within a period of one available effective working month of the said Court from the date of communication of this order and in doing so, shall not grant any unnecessary adjournment to either of the parties.

It is made clear that this Court has gone into the merit of the said application; it is for the learned Trial Judge to decide the same.

Leave to file written objection to the said application, as prayed for by Ms. Datta is granted. The petitioner is required to file such written objection within a week from date.

C.O. 1923 of 2021 is allowed with the above terms without any order as to costs.

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

(Biswajit Basu, J.)