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C.O. 2428 of 2022

**Sri Tapas Kumar Chattopadhyay @ Tapas
Chattopadhyay
Vs
Sri Krishna Chandra Sarkar @ Vishnu Sarkar &
Ors**

Mr. Tanmoy Chattopadhyay, ... For the petitioner.

This is against the order of affirmance of First Lower Appellate Court in Misc Appeal No. 02 of 2022 by learned Civil Judge (Senior Division), 2nd Court, Howrah against the order of the trial Court in Title Suit No. 246 of 2022 refusing to grant ad interim injunction.

The only contention expressed by the appellant in connection with this application under Article 227 of the Constitution of India is that the facts presented and pressed could not be considered by the Court below, and the appeal has been disposed of giving a go by to the deed plan, annexed with the sale deed, together with the admission of the defendant disclosed in the objection petition.

It is thus submitted that there is no intervening space left between the properties owned by the parties to this case.

Upon perusal of the impugned order, it appears that the Court below in appeal has already passed

direction requiring expeditious disposal of the appeal preferably within three months from the date of communication of the order.

As per submission disclosed by the petitioner, it appears that absence of any gap or intervening space between the properties of parties to the suit is only under dispute, which may be best shown upon filing an application for local inspection.

There is no error manifest or apparent on the face of record and nothing is there to show that grave injustice or gross failure of justice has been occasioned thereby.

In a situation like this, the Court finds every reasons not to interfere with the impugned order in exercise of authority available under Article 227 of the Constitution of India.

The revisional application is thus disposed of without making any interference with the order passed by the Court below in appeal.

This would not, however, prevent the petitioner to file an application for local inspection under Order 37 Rule 7 of the CPC, seeking local inspection of the subject property, prior to the decision of injunction application under Order 39 Rules 1 and 2 of the CPC, as per direction of the First Appellate Court.

Petitioner is 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)