

22.08.2022
Item No.4
Ct. No.7
CHC
(disposed of)

C.O.2513 of 2022

Kanika Dutta & anr.
Vs.
Brojo Durlab Dhar & ors.

Mr. Sourav Sen,
Mr. Priyankar Basu Mallick
...for the petitioners

The subject-matter of challenge in this case is against the order dated 26th July, 2022 vacating the interim order of injunction granted in this case.

Learned advocate appearing for the petitioners submits that petitioners are tenants, who have filed the instant suit before court below seeking declaration of their tenancy right in connection with pending suit. An interim order of injunction was granted on 30th June, 2020, directing the opposite parties/landlords not to disturb the peaceful possession of the petitioners, and also restrained defendants/opposite parties from dispossessing the plaintiffs in respect of the suit property, without due process of law.

Mr. Sen, learned advocate appearing for the petitioners submits that for some compelling circumstances no steps could be taken within the permissible time limit on the scheduled date so as to seek for extension of the interim order, upon

registering presence of the petitioners/plaintiffs in the court below.

It appears from the impugned order that Hazira along with petition for extension of interim order was filed at 1:50 P.M., which is beyond the time to file an application for the required purpose.

As per submission disclosed, a recalling application for vacating the order dated 26th July, 2022 has already been filed by the petitioners on 26th July, 2022, and the same has been posted for hearing on 28th November, 2022.

It is also submitted that for the interim order of injunction being withdrawn, the petitioners/tenants will be nowhere, and they may be ousted from the suit premises forcibly without adhering to the due process of law.

When an application has already been submitted for vacating the order dated 26th July, 2022 upon recalling the order passed by the court below, this Court is of the view that such application may be disposed of expeditiously, preferably within a period of fortnight from the date of communication of this order upon notice to the opposite parties.

Petitioners are directed to make communication of this order to the learned court below as well as to the opposite parties and their learned advocate in the court below.

Petitioners are given liberty to file an application seeking preponement of the date in the court below taking advantage of this order, and if any application is filed to that effect, the same may be considered giving a suitable date within a period mentioned hereinabove, and the matter may be disposed of giving an opportunity of hearing to both the parties.

Learned advocate for the petitioner undertakes to file certified copy shortly.

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.)