

(19)
18.04.2022
(p.jana)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

CO No. 3786 of 2019

Sri Tapan Joy Mondal

-versus-

Sri Shyamsundar Das & anr.

Mr. Partha Pratim Roy,
Ms. Poulaumi Chakraborty,
... for the petitioner.

Mr. Arup Krishna Das,
Mr. Abdus Salam,
... for the plaintiff/opposite party.

The defendant no. 2 in a suit for partition being Title Suit No. 75 of 2018 pending before the learned Civil Judge (Senior Division), Bolpur, District: Birbhum is the petitioner of the present application under Article 227 of the Constitution of India.

The learned Trial Judge by the order dated November 13, 2018 had disposed of an application for injunction filed by the petitioner thereby granting liberty to the petitioner to execute necessary construction work strictly within his occupied portion of 2 decimals of land in the suit property.

The petitioner alleging obstruction by the plaintiff/opposite party in execution of the said construction work, filed an application for

implementation of the said order of injunction by police assistance.

The learned Trial Judge by the order impugned being order no. 33 dated August 8, 2019 has dismissed the said application holding that the petitioner is carrying out the said construction work beyond the said two decimals of land.

Mr. Partha Pratim Roy, learned advocate for the petitioner submits that his client had filed an application to the concerned Gram Panchayat seeking permission to execute the said construction work and in terms of the permission granted by the said Gram Panchayat, the petitioner is carrying on the construction work over the said two decimals of land.

Mr. Roy files photocopy of the said application and the said permission granted by the said Gram Panchayat which are taken on record.

Mr. Arup Krishna Das, learned advocate for the plaintiff/opposite party submits that the petitioner is constructing building covering an area which is more than two decimals of land in violation of the said order of injunction as such his client has filed an application under Order XXXIX Rule 2A of the Code.

The dispute, whether the petitioner has confined his construction work within the said two

decimals of land or not, cannot be resolved by implementation of the said order dated November 13, 2018 by police assistance. Therefore the order impugned does not call for any interference.

However, to resolve the said dispute, the petitioner is granted liberty to apply before the learned Trial Judge for appointment of a Special Officer at his costs, to oversee the said construction work and to report any violation of the said liberty granted to the petitioner by the order dated November 13, 2018.

Mr. Das submits that his client would have no objection if such an arrangement is made.

In the event the petitioner files such an application, the learned Trial Judge is requested to dispose of the same as expeditiously as possible but not beyond seven days from the date of its filing.

C.O. 3786 of 2019 is disposed of with the above observations without any order as to costs.

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

(Biswajit Basu, J.)