

20.10.2022
Sl.No.2
sn

C.O.3252 of 2022

**Agent, Mohonpur Colliery & Ors.
Vs.
Ranen Kumar Roy**

**Mr. Saptangshu Basu..Sr.Adv.
Mr. Saunak Sengupta
Mr. Pradipto Bose
Mr. Nilratan Banerjee ..for the petitioners**

**Mr. Anupam Das
Ms. Rituparna Sengupta
..for the opposite party**

Let the affidavit of service be kept on record.

This revisional application is directed against an order passed by the learned Civil Judge, Junior Division, 3rd Court, Asansol in Title Suit No.576 of 2022. Briefly stated that the father of the plaintiff Sastikinkar Roy was owner of the suit properties described in schedule A,B & C. After his demise the plaintiff stepped into the shoes of his father and acquired properties.

It is alleged that the defendant no.1 issued several notices to the plaintiff to attend the meeting convened for the purpose of shifting of the suit property and for appropriate compensation but no such compensation was given and without paying any compensation the defendant started disturbing the possession of the petitioners by blasting explosive substance. The defendants are also

making attempt to excavate the property described in the schedule “C”.

The plaintiff by filing an application for temporary injunction under Order 39 Rule 1&2 of the Code of Civil Procedure prayed for an order of injunction.

Learned trial Court after considering the materials made available before him by the plaintiff was found it appropriate to restrain the defendant from disturbing the peaceful possession of the plaintiff over the suit property till November 14, 2022.

Challenging the legality of the said order, the petitioners preferred the application under consideration.

Mr. Basu, learned Senior Counsel appearing on behalf of the petitioners submits that the learned Trial Court exceeded jurisdiction while passing the order of injunction, to buttress his point Mr. Basu draws the attention of this Court to the provision laid down under Section 26 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 which clearly speaks of :- “ 26. Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the Central Government or the competent authority or

any other person is empowered by or under this Act to determine.”

Mr. Das, learned Counsel representing the respondents submits that liberty may be given to the respondents/plaintiffs to approach the appropriate authority for compensation.

Since Section 26 of the Coal Bearing Areas(Acquisition and Development) Act, 1957 clearly speaks of ouster of the jurisdiction of the civil court regarding any matter which the Central Government or the competent authority or any other person is empowered by or under this Act, in my humble opinion that the learned trial Court had no authority to invoke the jurisdiction to pass the order impugned.

In my humble opinion in view of the statutory provisions as laid down under Section 25 and 26 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 this order should not be allowed to remain in force and should be set aside which I accordingly do particularly when the suit as framed is not maintainable.

A copy of the order be sent down to the learned trial Court.

This revisional application is thus disposed of.

All parties are to act on the basis of the server copy of this order.

Copy of the order be sent down to learned Trial Court for information.

Urgent Photostat copy of the order be made available if applied there for, upon compliance with requisite formalities.

(Siddhartha Roy Chowdhury, J.)