

11.01.2022  
(S/L-11)  
Ct.-18  
(Susanta)

**(Via Video Conference)**

C.O. 4269 of 2019

Sri Durjodhan Ghuku  
-Vs-  
Ranjit Bachar & Ors.

Mr. Supriyo Chattopadhyay,  
.... For the Petitioner.

Mr. Tanmay Mukherjee,  
Mr. Souvik Das,  
Mr. Rudranil Das,  
.... For the Opposite Parties.

The instant revisional application under Article 227 of the Constitution is at the instance of the plaintiff in a suit for permanent injunction which is directed against order dated September 26, 2019 passed by the 2<sup>nd</sup> Court of learned Additional District Judge, Howrah in Miscellaneous Appeal no. 136 of 2017 arising out of the order No. 2 dated June 30, 2017 passed in Title Suit No. 392 of 2012.

The petitioner in the suit filed an application under Order XXXIX Rules 1 & 2 of the Code of Civil Procedure.

The learned Trial Judge disposed of the said application by the order dated June 30, 2017 by directing the parties to maintain status quo as regards the nature, character and possession of the suit property till the disposal of the suit.

The opposite parties aggrieved by the said order preferred the connected Miscellaneous Appeal No. 136 of 2017.

The 2<sup>nd</sup> Court of Learned Additional District Judge, Howrah, by the order impugned, has allowed the said appeal and thereby has set aside the said order of the learned Trial Judge.

Mr. Supriyo Chattopadhyay, learned Counsel appearing on behalf of the petitioner submits that the Appeal Court below has committed error in setting aside the order of the learned Trial Judge inasmuch as the plaintiff is cultivating the suit land for more than 30 years as Bargadar and to protect his possession over the suit land, order of injunction needs to be restored.

Mr. Tanmay Mukherjee, learned advocate appearing on behalf of the opposite parties submits that there is nothing on record to show that the plaintiff is in possession of the suit land and is the recorded Bargadar of the said land, the plaintiff, therefore, is not entitled to any protection as prayed for.

Having heard the learned Counsel for the parties and on perusal of the records, it appears that the petitioner although is claiming to be the Bargadar of the suit land for last thirty years but there is nothing on record to suggest that in terms of section 16 of the West Bengal Land Reforms Act, 1955 he has shared the produce of the suit land with the opposite parties, the admitted owners. It is also not the case of the plaintiff that in the record of rights of the suit land, his name has been recorded as Bargadar.

In the absence of any material to support the case of the plaintiff of the Bargadarship over the suit land, the plaintiff is not entitled to the order of injunction as prayed for, the order impugned under the aforesaid facts and circumstances of the present case does not call for any interference.

Mr. Chattopadhyay, however, submits that the application of the plaintiff to decide the dispute with regard to his right to cultivate the suit land as Bargadar is pending before the appropriate authority, he prays that the said application may be directed to be disposed of expeditiously.

If any application of the aforesaid nature is pending, the concerned authority is directed to dispose it of in accordance with law as expeditiously as possible.

C.O. 4269 of 2019 is disposed of 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.)