

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 122 of 2023

Atanu Chowdhury & Ors.
Vs.
Debdutta Mukherjee & Ors.

Mr. Partha Pratim Roy
Mr. Chiranjib Sinha
Mr. Dyutiman Banerjee
... For the petitioners

Mr. Sanjay Mukherjee
... For the opposite party no.1

In this application under Article 227 of the Constitution of India the order dated 29th September, 2022 passed by the learned District Judge, South 24-Parganas, in connection with Miscellaneous Appeal No.312 of 2022, has been challenged.

Both the learned advocates appearing on behalf of the parties to this revisional application are present. They are contended in respect of their cases.

It appears that the petitioners filed a suit claiming share over the property in question and also challenged the documents alleged to have been created by one Uma Mukherjee in favour of the defendants/opposite parties with regard to the suit property along with consequential prayers. Learned Civil Judge (Senior Division), 9th Court, Alipore, South 24-Parganas, who was in seisin over the matter, refused the ad interim injunction sought for on

behalf of the petitioners. Being aggrieved, the petitioners/plaintiffs preferred an appeal before the learned District Judge, South 24-Parganas, wherein the learned District Judge also refused ad interim injunction sought for on behalf of the petitioners/plaintiffs. Being aggrieved, the instant revisional application has been filed.

On a careful perusal of the entire materials on record and the orders impugned, at this stage I find hardly any necessity to go into the merit of the issue when the injunction application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure is still pending before the learned Civil Judge (Senior Division), 9th Court, Alipore, South 24-Parganas.

From record, it appears that this Court has already passed an order directing the parties not to create any third party interest in respect of the subject property till the second week of March, 2023 which was further extended till today, i.e., 10th April, 2023, in terms of the order dated 24th March, 2023.

After careful perusal of the orders passed by the learned Trial Court as well as the Appellate Court, I do not find any illegality and/or infirmity in the orders impugned subject to disposal of the application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure by the learned Trial Court.

In the circumstances, it would be proper to request the learned Civil Judge (Senior Division), 9th Court, Alipore, South 24-Parganas, to dispose of the injunction application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure after hearing both sides within one month from the date of receipt of this order, without giving any unnecessary adjournment to any of the parties.

Parties are directed not to create any third party interest in respect of the subject property till the disposal of the injunction application.

Learned advocate appearing on behalf of the petitioners/plaintiffs is directed to serve copy of the injunction application along with all annexure within 48 hours from date to the learned advocate appearing on behalf of the opposite parties in the learned Trial Court.

Accordingly, Miscellaneous Appeal No.312 of 2022 pending before the learned District Judge, South 24-Parganas, stands disposed of accordingly.

With the aforesaid observations, the revisional application, being CO 122 of 2023, stands disposed of.

Learned advocates appearing on behalf of the parties are at liberty to bring this order to the notice of the learned Civil Judge (Senior Division), 9th Court, Alipore, South 24-Parganas, forthwith.

All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)