

Item No. 7
05.07.2023
Court. No. 19
GB

C.O. 692 of 2023

Mumtaz Begum & Ors.
Vs.
Md. Afaque Raja Khan & Ors.

Mr. Tapas Mukherjee,
Mr. Aftaf Hossain,
Ms. Susmita Shaw

...for the Petitioners.

Mr. Kingsuk Mondal,
Sk. Omar Sarif

...for the Opposite Party No.1.

There appears to be some merit in the submission of Mr. Mukherjee, learned advocate appearing on behalf of the petitioners.

It appears that the learned court below was confused as to whether the ad interim order of injunction was subsisting or had been vacated or had been extended from time to time. It further appears that an order was recorded that the application for modification under Order 39, Rule 4 of the Code of Civil Procedure had been dismissed as infructuous. Once the ad interim order revived, upon consideration of an application under Section 151 of the Code of Civil Procedure, no order for revival of the modification application had been passed. A coordinate Bench had directed that the said application for modification should be heard. The learned court fixed dates for hearing of the application for modification but extended the ad interim order without considering the said application. This, in my opinion, was not the correct process.

However, as it is informed to the Court that the next date for hearing of the matter has been posted on July 10, 2023, justice would be sub served if the learned court is directed to dispose of the application for temporary injunction as also the objection filed by the defendant and the application for modification under Order 39, Rule 4 of the Code of Civil Procedure, within a week from the next date, positively, without granting any adjournment.

The time limit is peremptory and the learned court shall comply with the said order. On the next date, parties shall be at liberty to approach the learned court with a server copy of this order and pray for listing of the matter as directed by this Court and its final disposal. The order impugned is modified to the above extent.

Accordingly, the revisional application is disposed of.

However, there will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)