

S/L 28
28.04.2023
Court. No. 12
Suwayan

CO 632 of 2022

**Shovona Group of Companies Pvt. Ltd.
Vs.
Nehal Ahmed Salehjee & Ors.**

*Mr. Tanmoyee Bhattacharya
Md. Nauroz Rahber
Mr. K. R. Ahmed
Muhammad Jawwad*

...for the petitioner.

*Mr. Sk. Md. Galib, Sr. Adv.
Ms. Tanwishree Mukherjee*

...for the Board of Auqaf.

*Mr. Dhiraj Trivedi
Mr. Amit Sharma
Mr. Bikash Kr. Singh
Mr. Sunil Gupta
Ms. Swapna Jha*

...for the opposite party nos. 1 and 2.

*Ms. Mousumi Bhowal
Mr. Aman Gupta
Mr. Ishan Bhattacharya*

...for the opposite party no. 5.

1. Learned Advocate for the defendant No. 1/petitioner, learned Advocate for the plaintiffs/opposite party Nos. 1 and 2, learned Advocate for the opposite party No.3/Board of Auqaf, West Bengal and learned Advocate for the opposite party No. 5 are present.
2. Heard learned Advocates for the parties for and against the instant revisional application. Perused the entire materials as placed before this Court.
3. Considered.
4. The present revisional application is now taken up for passing appropriate order.
5. In this revisional application the Order No. 3 dated 17.12.2021 and Order No. 6 dated 14.01.2022 as passed in Suit No. 33 of 2021 by the learned Waqf

Tribunal, West Bengal hereinafter referred to as the said Tribunal has been assailed.

6. By the impugned Order No. 3 dated 17.12.2021 the said learned Tribunal passed an *ad interim* order of injunction against the defendant No. 1/present revisionist from making any construction over the suit property and further restrained him from transferring and/or creating any third party's interest over any portion of the suit property till the next date of hearing.
7. By the impugned Order No. 6 dated 14.01.2022 learned Tribunal also allowed the plaintiff's application under Section 151 of the Code of Civil Procedure directing the local Police Station to implement its earlier Order No. 3 dated 17.12.2021. The defendant No. 1 of the said suit felt aggrieved and, thus, preferred the instant revisional application.
8. It reveals to this Court that at the time of admission of the instant revisional application a co-ordinate Bench of this Court by its order dated 25.03.2022 passed an order directing stay of operation of both the aforesaid impugned two orders as passed by the learned Tribunal. On perusal of the photocopy of the Order No. 11 dated 20.04.2022 as passed in Suit No. 33 of 2021 which has been annexed by the plaintiff/opposite party Nos. 1 and 2 in their affidavit-in-opposition it reveals that on the said day, i.e., on 20.04.2022 the

said Tribunal recorded the presence of the plaintiffs as well as the absence of the defendant and, thus, disposed of the injunction application as filed by the plaintiff before the learned Trial Court in absence of the defendant.

9. Admittedly, by the order dated 25.03.2022 as passed in this revisional application there was no stay in respect of proceeding with Suit No. 33 of 2021 as pending before the learned Auqaf Tribunal, West Bengal. It is also not clear as to why the present defendant No.1/revisionist absented himself in making appearance before the learned Tribunal on 20.04.2022 when the plaintiffs' application under Order 39 Rules 1 and 2 was taken up for hearing.
10. In view of the aforesaid situation it appears to this Court that in view of the disposal of the injunction application on its merit, the present revisional application has become infructuous and accordingly the instant revisional application being CO 632 of 2022 is hereby dismissed being infructuous.
11. Parties to act on the server copies of this order.
13. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)