

Item No. 10
16.08.2023
Court. No. 19
GB

C.O. 707 of 2023

Sajahan Biswas
Vs.
Emdadul Haque

*Mr. Partha Pratim Roy,
Mr. Dyutiman Banerjee*

...for the Petitioner.

The petitioner is aggrieved by an order dated January 20, 2023, passed by the learned Civil Judge (Senior Division) at Jangipur, District-Murshidabad in Misc. Appeal No.04 of 2022.

By the order impugned, the order passed by the learned Civil Judge (Junior Division), 1st Court at Jangipur dated October 31, 2022 in Title Suit No.143 of 2022, was not interfered with at the interim stage as the learned Civil Judge (Senior Division) at Jangipur did not find sufficient materials to pass the order of stay.

The point raised by the petitioner as to whether the order of implementation of the ad interim order by police help could be issued on the first day when the ad interim order was passed, without any formal application alleging violation of the ad-interim order, has merit.

Hence, this Court is of the view that the proper remedy of the petitioner would be to get the misc. appeal disposed of expeditiously, preferably within a month from the next date fixed. The above point raised, shall be decided as well.

Mr. Roy has, prima facie, impressed the Court that the direction of the learned Civil Judge (Junior Division), 1st Court at Jangipur directing the I.C. Raghunathganj Police Station to render assistance in case of allegation by the plaintiff, could not have been passed without there being specific allegation and findings of violation. Yet, the question should be decided upon hearing the contesting parties.

However, this Court is of the view that the observation was qualified by the expression 'if any assistance is sought for'. As of now, according to Mr. Roy, no such complaint had been filed before the police authorities. Hence, this order will not cause any sufferance to the defendant for the period of one month within which the misc. appeal should be disposed of. The misc. appeal shall be heard on all points and also on the points raised by Mr. Roy with regard to the correctness of the order and direction upon the I.C., Ragunathganj Police Station.

Accordingly, the revisional application is disposed of without any interference with the order impugned, but with the directions stated hereinabove.

The learned lower appellate court shall ensure that the LCR, if not already sent, shall reach the learned court below within ten days from communication of this order.

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

(Shampa Sarkar, J.)