

10.08.2023  
Sl. No.3(DL)  
srm

**C.O. No. 1125 of 2023**

**Hasim Jamadar**

**Versus**

**Banshi Sk. & Ors.**

Mr. M.P. Gupta,  
Mr. Dilip Kumar Saila,  
Mr. Supriya Mahajan

...for the Petitioner.

This Court is not inclined to interfere with the order dated January 19, 2023 passed by the learned Civil Judge (Junior Division), 4<sup>th</sup> Court at Howrah, in Title Suit No.1206 of 2018.

By the order impugned, the learned court below rejected the second application under Section 151 of the Code of Civil Procedure. The petitioner's prayer for implementation of the ad-interim order with police help was refused. The grounds for rejection were as follows:

- (a) On an earlier occasion, a similar application was rejected by the Court, by an order dated September 20, 2019.
- (b) The petitioner did not challenge such order before any higher forum. After a lapse of few years, once

again an application was filed alleging violation of the order of ad interim injunction.

(c) The court found that facts and circumstances pleaded in the second application, did not warrant invocation of the inherent power of the court to grant police help.

(d) The learned court was also of the view that without commission work and an inspection in terms of Order XXXIX Rule 7 of the Code of Civil Procedure, it would not be possible for the court to come to a conclusion that there had been any violation of the ad interim order of injunction.

The supplementary affidavit, which has been filed, indicates that the petitioner has relied upon communication and letters since 2018. Such letters indicate violation of the ad-interim order. Thereafter, the prayer for implementation of the ad interim order of injunction with police help, was refused in 2019. After a lapse of 4 years again, by relying on some GD entries, the petitioner prayed for implementation of the ad interim order of injunction with police help.

The application under Section 151 of the Code of Civil Procedure does not disclose how and by what means, the defendants had violated the order of ad interim injunction. By an ad interim injunction, the defendants were restrained from

disturbing the possession of the plaintiff in respect of the suit property and further restrained from changing the nature and character of the property. There is nothing in the pleadings which would indicate that the defendants had committed any acts of violation of the order of ad-interim injunction.

Hence, this Court does not find any reason to interfere with the order passed by the learned court below. It was a matter of discretion of the court. The court refused to exercise such discretion. The pleadings and facts which were available before the court, did not justify grant of an order of implementation of the ad-interim order with the help of the police. According to the court, such order could not be passed on the mere asking. This court does not find the order to be either preserved or unreasoned.

The learned court below is directed to dispose of the application for temporary injunction expeditiously.

The revisional application is, thus, disposed of.

There will be, however, no order as to costs.

Parties are to act on the basis of the server copy of this order.

**(Shampa Sarkar, J.)**