

05.06.2023
Sl. No.9(ML)
srm

C.O. No. 1156 of 2023

M/S Keshardeo Dalmia H.U.F.

Vs.

Sri Anup Kumar Kundu & Ors.

Mr. Om Narayan Rai,
Mr. Prashant Agarwal

...for the Petitioner.

Mr. Surajit Nath Mitra,
Mr. Jishnu Chowdhury,
Mr. Aritra Basu,
Mr. Abhidipto Tarafder,
Ms. Angshumala Banshal,
Ms. Prarthana S. Roy

...for the Opposite Parties.

The limited prayer of the petitioner is that the learned Civil Judge (Senior Division), 2nd Court at Barasat, be directed to dispose of the pending application being Misc. Case No.29 of 2023, which is an application under Order IX Rule 13 of the Code of Civil Procedure for setting aside the *ex parte* decree passed in Title Suit No.772 of 2018. The petitioner further prays that an application for injunction restraining the opposite parties from raising any construction on the land in question should also be heard out by the learned court below.

Mr. Mitra, learned Senior Advocate appearing on behalf of the opposite parties submits that an application under Section 24 of the Code of Civil Procedure is pending before the

learned District Judge at Barasat. The opposite parties have prayed for transfer of the Misc. Case as also the pending application to another court. It appears that no orders have yet been passed in the Section 24 application.

Under such circumstances, the revisional application is disposed of with a direction upon the learned Civil Judge (Senior Division), 2nd Court at Barasat, to dispose of the Misc. Case and the application for injunction, in accordance with law within a period of three months from the date of communication of this order. This order shall be subject to any decision that may be taken in the pending application for transfer of the proceedings.

The Court is satisfied that the justice would be subserved if the applications are disposed of on their merits upon contested hearing.

It is informed that the application under Section 24 of the Code of Civil Procedure filed by the opposite parties has been fixed by the learned District Judge on June 16, 2023 and the Court expects that the opposite parties will get adequate opportunity to move their application for necessary orders, before the learned trial judge takes up the application, as directed by the Court. The learned Trial Judge has fixed the date on June 17, 2023 for hearing the applications.

The revisional application is 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.)