

05.06.2023
Sl. No.10(ML)
srm

C.O. No. 1157 of 2023

Nitin Lal Budhdev & Anr.

Vs.

Sri Anup Kumar Kundu & Ors.

Mr. Om Narayan Rai,
Mr. Prashant Agarwal

...for the Petitioners.

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 petitioners is that the learned Civil Judge (Senior Division), 2nd Court at Barasat, be directed to dispose of the pending application being Misc. Case No.28 of 2023. The said Misc case, 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.771 of 2018. The petitioners further pray that the 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 applications to another court. It appears that no orders have yet been passed in 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 as also the application for injunction in accordance with law within a period of three months from the date of communication of this order. The Court is satisfied that the justice would be sub-served if the applications are disposed of on their merits upon contested hearing.

This order shall be subject to any decision that may be taken in the pending application for transfer of the proceedings.

It is also informed that the application under Section 24 of the Code of Civil Procedure filed by the opposite parties has been fixed 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 pending applications. The next date fixed by the learned trial judge is June 17, 2023.

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.)