

Item No. 6
03.07.2023
Court. No. 19
GB

C.O. 1193 of 2023

Sk. Amed Ali
Vs.
Sk. Abed Ali & Ors.

*Mr. Partha Pratim Roy,
Mr. Dyutiman Banerjee,
Mr. Salil Kumar Maity*

...for the Petitioner.

Mr. Raj Kumar Sain

...for the Opposite Party Nos.1 to 4.

The petitioner is the defendant in Title Suit No.78 of 2022, which is pending before the learned Civil Judge (Senior Division), Haldia, Purba Midnapore. The petitioner is aggrieved by an order dated March 31, 2023. The learned Civil Judge (Senior Division), Haldia had allowed an application for police protection dated March 31, 2023 filed by the plaintiffs, ex-parte. The Officer-in-Charge, Mahishadal Police Station was directed to render necessary police help to the plaintiffs for implementation of the order of ad interim of injunction, which had been passed on April 27, 2022.

The petitioner submits that the learned court below, on the basis of a put up petition and without affording an opportunity to any of the defendants to file their objection to the application, had passed the order of police protection.

There is no quarrel with the proposition of law that in case there are violations of the orders of injunction passed by a competent court, the party affected by such violation can approach the learned trial court for necessary orders of police help. However, no court can pass an order without affording an opportunity of being heard, to the party against

whom allegations of violation of the ad-interim order are leveled, if they are already appearing in the suit. An opportunity ought to have been given to the defendants to contest the application for police help by filing an objection. The said application along with the objection, ought to have been disposed of on a contested hearing.

This Court has not expressed any opinion either with regard to the maintainability of the application for police help or with regard to the merits pleaded therein. The order impugned dated March 31, 2023 is set aside only on the ground that the ex parte order could not have been passed on the basis of a put up petition filed by the plaintiffs without giving an opportunity to the defendants to contest the same.

This Court is of the view that written objection to the said application for police help shall be filed within ten days from date. Thereafter, the learned court below shall dispose of the application upon contested hearing within the following ten days. Parties may file a put up petition for necessary preponement of the date, if necessary. However, as there is a subsisting order of ad interim injunction, all parties are obliged to comply with the same. After disposal of the said application, the learned court below shall proceed with the hearing of the injunction application and dispose of the same within the next three months.

Accordingly the revisional application is disposed of.

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

(Shampa Sarkar, J.)