

July 24, 2023
Sl. No.A 1374
Court No.19
s.biswas

CO 1228 of 2023

Sri Ramapada Maity @ Rampada Maity
vs.
Shrabani Dutta and another

Mr. Abhishek Banerjee

... for the petitioner

Mr. Animesh Paul

Ms. Haardikaa Rajdev

... for the opposite party no.1

This court does not find any illegality in the order impugned. However, some modification is required. While directing that the parties should maintain status quo with regard to the suit property, the learned District Judge, Howrah allowed the prayer for stay of the operation of the order passed by learned Civil Judge (Junior Division), 2nd Court, Howrah, dated September 23, 2022, in Title Suit No.997 of 2021. Such order of stay amounts to allowing the main relief in the appeal.

However, this court is of the, prima facie, view that the learned District Judge, Howrah, had rightly held, upon dealing with several decisions of the Hon'ble Apex Court that any suit in which the right, title and interest of the properties are pending adjudication, and there are allegations of encroachment on a common passage by construction of a building, status quo should be maintained. Hence, it is ordered that till the Misc appeal is disposed of finally, the status quo be maintained by

the parties. The Misc Appeal No.197 of 2022, which is pending before the learned District Judge, Howrah, be disposed of within three months from the next date fixed.

This court has not gone into the merits of the appeal and the appeal shall be disposed of on its own merits.

The revisional application is thus disposed of.

All the parties are directed to act on the basis of the server copy of the order.

(Shampa Sarkar, J.)