

Item No. 3  
30.06.2023  
Court. No. 19  
GB

C.O. 1356 of 2023

Sri Amit Mishra  
Vs.  
Shri Ram Prasad & Anr.

*Mr. Saibal Kumar Acharyya,  
Mr. Krishna Das Poddar,  
Mr. Pradip Paul,  
Ms. Renesa Dey*

*...for the Petitioner.*

*Mr. Shubham Gupta,  
Mr. Raunak Shaw*

*...for the Opposite Party No.1.*

The revisional application has been filed challenging an order dated April 11, 2023 passed by the learned Judge XII<sup>th</sup> Bench, City Civil Court at Calcutta in Title Suit No.148 of 2023. By the order impugned, the learned court below came to the conclusion that the application for police help should be heard along with the application for recalling of the order dated March 6, 2023, filed by the defendant no.1.

The learned advocate for the petitioner/defendant no.1 submits that before the learned court below progresses with the application under Section 151 of the Code of Civil Procedure, the other pending applications should be disposed of by the learned court below.

Having considered the nature of the prayer in the application under Section 151 of the Code of Civil Procedure, which relates to restoration of possession and having considered the contention of the defendant no.1 in the application under Order 39, Rule 4 of the Code of Civil Procedure wherein the defendants have denied the

possession of the plaintiff and contended that they were ousted, this Court is of the view that justice would be subserved if the applications under Order 39, Rules 1 and 2 of the Code of Civil Procedure along with the objection filed by the defendant and the application under Order 39 Rule 4 of the Code are disposed of first. The order impugned is set aside.

The learned court below is directed to hear out the application for temporary injunction along with the objection as also the application for modification of the order of ad interim injunction filed by the defendant no.1 under Order 39, Rule 4 of the Code of Civil Procedure, within a period of two months from the next date fixed. Upon disposal of the said application, the court shall proceed with other pending applications in accordance with law and in accordance with the priority those applications deserve.

As no affidavits have been called for, the allegations are deemed to be denied.

This Court has not expressed any opinion on the contentions of either of the parties in the pending applications or in the pending suit.

Accordingly, the revisional application is disposed of.

However, there will be no order as to costs.

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

**(Shampa Sarkar, J.)**