

June 7, 2023
Sl. No.4
Court No.19
s.biswas

CO 1645 of 2023

*Sk. Golame Meheub Ali @ Sk Golame Meheub and
another
vs.
Kartik Maity and others*

Mr. Anujit Mookherji
Mr. Arijit Pradhan

... for the petitioners

The petitioners are the defendants in Title Suit No.36 of 2023. The Title Suit is a suit for declaration and injunction.

The petitioners submit that the plaintiffs had filed the suit and obtained ad interim injunction. The said ad interim injunction was passed ex parte. Thereafter, the said order was modified by allowing an application made under Order 39 Rule 4 of the Code of Civil Procedure. The said order was also passed ex parte.

The petitioners/defendants filed an application in the learned court below for modification of the order of ad interim injunction. According to the petitioners, the learned court below ought to have fixed a short date for hearing of the application for modification as the petitioners/defendants are suffering irreparable loss and injury for not being able to cultivate during the particular season.

It is submitted by the learned advocate for the petitioners that the plaintiffs are not pursuing the

suit diligently and an order has been passed asking them to show cause as to why the suit should not be dismissed for default. The next date fixed in the suit is September 2, 2023.

The learned advocate for the petitioners further submits that the written statement and the written objection have already been filed. Learned advocate seeks preponement of the date of hearing.

This Court is of the view that the learned Civil Judge (Junior Division), Haldia, Purba Medinipur, has already fixed September 2, 2023 for filing show cause by the plaintiffs and the matter shall be taken by the learned court on that date. This Court should not pass any order for preponement of the date, as this court is not aware of the business of the learned court below and is not inclined to upset the register/diary of the court.

Thus, this court is of the view that justice would be subserved if the application for temporary injunction along with application for modification filed by the petitioners be taken up and disposed of within a period of two months from September 2, 2023, upon considering the contentions of both the parties, including the objections of the petitioners.

It is made clear that unnecessary adjournments shall not be given to any of the parties.

This court has not gone into the merits of the application for injunction and the objections raised by the petitioners. The entire issue with regard to injunction shall be decided by the learned court below, independently, on the facts and the records. A copy of this application should be served upon the learned advocate for the plaintiffs who is contesting the suit in the learned court below, within a period of one week from date.

The revisional application is disposed of.

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

(Shampa Sarkar, J.)