

04.10.2023
Court No. 19
Item no.35
CP

C.O. No. 2026 of 2023

Nijam Uddin Molla
Vs.
Nasir Uddin Molla & ors.

Mr. Souradipta Banerjee
Ms. Deblina Chattaraj
Ms. Fatima Hassan

.....for the petitioner.

Affidavit of service is taken on record.

Despite service, none appears on behalf of the
opposite parties.

This revisional application arises out of an
order dated January 30, 2023, passed by the learned
Civil Judge (Junior Division), 1st Court, Diamond
Harbour in Title Suit No. 169 of 2019. By the order
impugned, the learned court allowed an application
for implementation of the order of injunction vide
Order No. 2 dated June 27, 2019 and further
directed the Officer-in-Charge of Raidighi Police
Station to file a report.

Mr. Banerjee, learned advocate appearing on
behalf of the petitioner, submits that the order
suffers from material irregularity. The order of
injunction was passed on September 21, 2022 and
the parties were directed to maintain status quo in
respect of the nature, character and possession of
'Ka' schedule property as mentioned in the schedule

of the plaint. The defendant no. 1 was restrained from creating any disturbance in the peaceful possession of the plaintiff in the 'kha' schedule property mentioned in the schedule till disposal of the suit.

As the learned court mentioned Order No. 2 dated June 27, 2019 as the order of injunction, implementation of the order of injunction with the police help had become impossible.

It is further submitted that on June 27, 2019, an ad interim order had been passed which has now merged with the order of injunction and the learned court passed an erroneous order by mentioning a wrong date.

In my view, the contention of the petitioner that an order of injunction had been passed is correct. The nature of the order of injunction has already been discussed hereinabove. The order of injunction was passed upon contest. The learned court was satisfied that the order of injunction should be implemented, but the date which was inserted in the order was the date when the ad interim injunction was passed.

The petitioner is at liberty to approach the learned court below for rectification of the said order and if the petitioner's grievance continues with regard to the alleged violation of the order of

injunction, further application may be filed seeking implementation of the order of injunction with police help.

This court is of the view that the learned court below is competent to pass necessary orders which have been prayed for in this revisional application.

Accordingly, the order impugned does not call for any interference.

If such applications are filed, the same shall be disposed of within a week after reopening of the court, after the ensuing Vacation, upon contest.

The revisional application is accordingly disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)