

July 7, 2023
Sl. No.14
Court No.19
s.biswas

CO 2022 of 2022

Sri Arup Giri and others

vs.

sri Deb Shankar Mandal and others

Mr. Tanmoy Mukherjee

Mr. Souvik Das

Mr. K. R. Ahmed

Mr. Rudranil Das

Mr. Soumava Santra

... for the petitioners

Mr. Soumik Ganguly

... for the opposite parties

Affidavit of service, filed by the petitioner, is taken on record.

The court does not deem it necessary to interfere with the conclusion arrived at by the learned Civil Judge (Senior Division), 1st Court, Contai, Purba Medinipur, in Title Appeal No.06 of 2022, arising out of Title Suit No.82 of 2017.

However, by dealing with Exhibits B, D and I, in such detail and in arriving at the specific conclusion that the pathway over the A Schedule property for ingress and egress of the appellant/opposite party, at plot no.248, had been in existence for a substantial period of time, the learned lower appellate court seems to have pre-judged the issues.

Further finding that if the construction is allowed, opposite parties would be land locked and would not have any pathway to reach the government road, should be treated as a tentative observation.

Although, the learned court records that those are, prima facie, observations, this court holds that all the observations in the order impugned, shall be treated as tentative. The order impugned shall not influence the learned lower appellate court while disposing of the injunction application as also at the final hearing of the appeal.

Learned court below shall consider all the contentions of the petitioners/respondents while deciding the injunction application and the appeal.

This court has not interfered with the status quo passed by the learned lower appellate court.

Revisional application is disposed of.

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

(Shampa Sarkar, J.)