

S/L 216  
29.03.2023  
Court No.652  
SD

CO 1833 of 2021  
With  
CAN 1 of 2021

Sri Bishnupada Dutta  
Vs.  
Shelly Dutta & Ors.

*Mr. Sukanta Chakraborty*  
*Mr. Anindya Halder*  
*Mr. Zubair Ahmed*

*...for the Petitioner.*

CAN 1 of 2021:-

This is an application for restoration of this revisional application.

It appears that this revisional application was dismissed for default on 09.11.2021 since the petitioner could not appear before this Court when the matter was called.

Having regard to the averments made in the application, I am of the view that the petitioner was prevented by sufficient cause from not appearing before this Court on 09.11.2021 when this revisional application was taken up for hearing.

Accordingly, the order dated 09.11.2021 is recalled. CAN 1 of 2021 is disposed of.

The revisional application being CO 1833 of 2021 is restored to its original file and number.

CO 1833 of 2021:-

This is an application under Article 227 of the Constitution of India seeking direction upon the court below

for expeditious disposal of the injunction application filed by the plaintiffs/opposite parties under Order 39 Rule 1 and 2 as well as application filed by the defendant/petitioner under Order 39 Rule 4 of the Code of Civil Procedure within a specific period of time.

The petitioner contended that the opposite parties herein filed Title Suit No.1910 of 2019 and they have also filed one injunction application under Order 39 Rule 1 and 2 against the present petitioner in the said suit which was filed for declaration and permanent injunction. Initially, learned court below, on the basis of plaintiffs/opposite parties' prayer, has granted ex parte order of ad-interim injunction against the defendant/petitioner herein in the form of status quo on December 20, 2019. The petitioner herein as defendant entered appearance and filed written objection against the opposite parties' prayer for injunction and also filed application under Order 39 Rule 4 for vacating the order of injunction. Both the applications are pending before the court below since then and it has not yet been disposed of. Accordingly, petitioner has prayed for necessary directions.

Since the prayer made by the petitioner is innocuous and order is passed in terms of the prayer made in the application, neither party will have a cause to prejudice, service of copy of the revisional application as well as notice upon the opposite parties/plaintiffs is dispensed with.

Considering the nature of prayer made herein and that the prayer is justified, CO 1833 of 2021 is hereby

disposed of with a direction upon the court below to dispose of both the applications being plaintiffs' application under Order 39 Rule 1 and 2 and defendant/petitioner's application under Order 39 Rule 4 of the Code of Civil Procedure preferably within a period of six weeks from the date of communication of the order.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

**(Ajoy Kumar Mukherjee, J.)**