

03.10.2023
Court No. 19
Item no.38
CP

C.O. No. 2173 of 2023

Laxman Chandra Patra
Vs.
Biswanath Patra & ors.

Mr. Sandip Das

.....for the petitioner.

There is no scope for interference with the order of the learned Additional District Judge, Fast Track, 3rd Court, Diamond Harbour dated May 2, 2023, passed in Title Appeal No. 48 of 2010.

By the order impugned, the learned court below stayed its order dated September 28, 2022, upon perusal of the learned advocate commissioner's report. It appeared that that at the time of holding commission, the petitioner resisted the commissioner from entering into the property.

The opposite party nos. 4 and 7 filed an application before the learned court below praying for stay of the order of repair on the ground that under the garb of repair, the petitioner was changing the nature and character of the suit property. The prayer of the petitioner for completion of the repair work with police help, was also rejected.

This court is not a fact finding court. This court is also not a appellate forum which can re-

appreciate the evidence. The learned court was satisfied that under the garb of repair, construction was going on. Moreover, the learned commissioner was prevented from entering into the petitioner's premises.

The learned commissioner submitted a report stating that he was resisted by the plaintiff.

Under such circumstances, this court is not inclined to interfere with the order impugned. The order impugned is a discretionary order. It also appears that the order dated September 28, 2022 has been stayed and not recalled.

The petitioner is at liberty to approach the learned court below for necessary reliefs, in accordance with law.

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.)