

Item No. 10
10.10.2023
Court. No. 19
GB

C.O. 2201 of 2023
With
CAN 1 of 2023

Sri Jagabandhu Mondal & Ors.
Vs.
Sri Susanta Mondal & Anr.

Mr. Souvik Das

...for the Petitioners.

*Mr. Parthapratim Roy,
Mr. Sunny Nandy,
Mr. Subha Pathak,
Ms. Yamini Tiwari*

...for the Opposite Party No.1.

This revisional application arises out of two orders, one dated April 24, 2023 and the other dated June 5, 2023. Both the orders were passed by the learned Civil Judge (Junior Division), 2nd Court at Chinsurah, Hooghly in Title Suit No.196 of 2023.

By the order dated April 24, 2023, an order of temporary injunction was passed. The order is quoted below:-

“Both the parties to the suit are hereby directed to maintain status quo regarding the title, possession and enjoyment of the ‘Ka’ schedule mentioned suit property in any manner whatsoever till disposal of the instant suit. This status quo order will not create any embargo upon the pisciculture done in the ‘Ka’ schedule mentioned tank irrespective of whoever is doing the same. The Ld. BL & LRO is at liberty to conclusively determine the proceedings pending before him regarding the dispute of LRROR of the plaintiff, as it will help to conclusively determine the fate of the instant suit.”

This Court is not inclined to entertain the challenge to the order dated April 24, 2023 as the said order is an appealable order. Even the direction upon the Block Land and Land Reforms Officer to exclusively determine the proceeding before him, is also a part of the order of temporary injunction. Hence, the entirety of the order should be challenged in a misc. appeal.

With regard to the order dated June 5, 2023, this Court is unable to understand what was actually directed by the learned court below. An application filed by the opposite party no.1 for implementation of the order of injunction was allowed. On the other hand, the learned court below directed the defendant to abide by the order of injunction. While directing the parties to abide by the order of injunction, the court also observed that the plaintiffs had submitted documents which would show that they were continuing to use the property for pisciculture. Although, such was observation made and opinion of the court was formed, in the ordering portion the court directed the defendants to abide by the injunction order to avoid further complications and for ends of justice.

Such order has created confusion as regards the status of the property and the possession of the parties at the point of time when the order of temporary injunction was passed. The order impugned is set aside on the ground of the same being ambiguous. The order suffers from lack of clarity.

The opposite party is at liberty to file appropriate application seeking modification, variation, vacation or

clarification of the order of temporary injunction. As yet, there is no challenge to the order of temporary injunction, and as such, the order will continue till further orders of a competent court.

Accordingly, the revisional application along with CAN 1 of 2023 are disposed of.

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

(Shampa Sarkar, J.)