

14.08.2023
Sl. No.138(DL)
srm

C.O. No. 2646 of 2023

Gobinda Mahato & Ors.

Versus

Amjad Ali

Mr. Debdatta Basu,
Mrs. Pampa Dey (Dhabal)

...for the Petitioners.

Mr. Souvik Das,
Mr. K.R. Ahmed,
Mr. Soumava Santra

...for the Opposite Party.

The revisional application arises out of an order dated July 21, 2022 passed by the learned District Judge, Howrah, in Misc. Appeal No.127 of 2022.

The petitioners allege that the learned District Judge ought to have passed an order of interim protection in the nature of *status quo* in favour of the petitioners. According to the petitioners, the opposite party was a notorious person. He was a promoter of the area and was trying to forcefully dispossess the petitioners.

Title Suit No.879 of 2022 was filed before the learned Civil Judge (Junior Division), 3rd Court at Howrah, for permanent injunction.

The plaintiffs/petitioners also prayed for an ad interim order of injunction restraining the defendant/opposite party, his men, agents and associates from creating any disturbance in the peaceful possession and enjoyment of the plaintiffs, in respect of the suit property. The learned trial court refused the prayer for ad interim injunction on the ground that the plaintiffs failed to satisfy that there was grave urgency to pass an ad interim order of injunction without hearing the other side. The fact that the plaintiffs had filed an MP case and were in possession of the property in question, was also recorded.

Mr. Das, learned Advocate appearing on behalf of the defendant/opposite party submits that the plaintiffs had already suffered an eviction decree and they had been dispossessed. They got back possession forcefully and thereafter filed the suit in order to prevent the decree-holder from using the property in question.

The order was challenged by way of Misc. Appeal No.127 of 2022. The misc. appeal was admitted. The learned lower appellate court, was *prima facie*, satisfied that the appeal had some merit, fixed August 17, 2022 for hearing of the misc. appeal along with the injunction application. No ad interim order was passed

This Court is of the view that the misc. appeal and the injunction application should be heard and disposed of expeditiously.

Having heard learned Counsel for the respective parties, this Court is of the view that justice would be sub-served if the misc. appeal is disposed of within 10 days from the next date fixed.

This Court has not gone into the merits of the claim and counter-claim of the parties and the learned court below shall decide the misc. appeal independently and without being influenced by any of the observations made hereinabove.

The petitioners are at liberty to approach the police authorities, if any disturbance is caused by the defendant.

A copy of the revisional application be served upon Mr. Das, learned counsel for the opposite party within two days from date.

The revisional application is, thus, disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)