

21.07.2023
Court No.19
Item no.38
CP

C.O. No. 2764 of 2022

Sri Debasish Moulik
Vs.
Sri Dwiptendra Nath Moulik & anr.

Mr. Nirmalya Dasgupta
Mr. A. Biswas

...for the petitioner.

The petitioner has challenged the order dated June 28, 2022, passed by the learned Judge Xth Bench, City Civil Court at Calcutta in Title Suit No. 1445 of 2019. By the order impugned, the learned court rejected an application under Order I Rule 10(2) of the Code of Civil Procedure filed by the petitioner.

It is submitted that the petitioner was neither a party to the agreement between the plaintiff and the opposite party no. 2, nor was the arbitration clause binding upon the petitioner. The petitioner is a publishing house and publishes books under the name and style of 'Prantik' as the proprietor thereof.

The learned court below rejected the application filed by the petitioner on the ground that although there were no direct allegations against the petitioner, but the allegations and the cause of action of the suit filed by the plaintiff against the opposite party no. 2, involved the petitioner as well.

The plaintiff alleged that in breach of an agreement executed between the plaintiff and the opposite party no.2, the opposite party no. 2 would take the initiative to publish the books through the defendant no. 2/petitioner. Hence, an order of injunction has also been prayed for against the petitioner, from making any attempt to publish any further books of Life Science or Jib Bidya or any other books of similar nature authored by the defendant no.1/opposite party no.2.

Under such circumstances, this court is of the view that the carriage of proceedings being in the hands of the plaintiff, the plaintiff had rightly impleaded the defendant no. 2/petitioner in the suit for effective adjudication of the suit and for necessary reliefs. The relief of injunction restraining the petitioner from publishing any books authored by the opposite party no. 2 cannot be either granted or implemented, in the absence of the defendant no. 2/petitioner.

The order impugned does not suffer from any irregularity.

The court has not gone into the merits of the issues involved. The petitioner is at liberty to take all points which are available to the petitioner under the law, at any stage of the proceeding.

A copy of the revisional application along with a server copy of this order be served upon the opposite parties and/or the learned advocates contesting the matter on behalf of the opposite parties in the learned court below.

Accordingly, the revisional application is dismissed.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)