

12.7.2023

ct. 236

sk,sl.36

C.O. 2311 of 2014

In the matter of: Narayan Ch. Paria

Mr. Asit Baran Raut

Mr. Surajit Roy

..for the petitioner.

Mr. Gopal Ch. Ghosh

Mr. Rajkrishna Mondal

...for the O.P.

Supplementary affidavit filed by the petitioner is taken on record.

This revisional application challenges the order dated 11th April, 2014 passed by Additional District Judge, 3rd Court, Paschim Medinipur in Misc. Appeal No. 62 of 2011, affirming thereby the order passed by the learned Trial Court in dismissing the prayer for temporary injunction.

Mr. Raut, learned counsel for the petitioner takes me to the order passed by Hon'ble Mr. Justice Sanjib Banerjee on 19th September, 2014.

Upon perusal of the said order, I find that having heard learned counsel representing the parties it was

observed “The matter pertains to a tank. The petitioner claims to be the exclusive owner of the tank covered by Dag No. 115 in Mouza-Hiradhi. The opposite parties do not dispute the petitioner’s exclusive right to the tank at Plot No. 115 of Mouza-Hiradhi, but submit that the opposite parties are the owners of Plot No. 129 of Mouza-Keshiasole.....

.....

For the moment, the petitioner’s rights in respect of 2.16 acre of the water body at Dag No. 115 of Mouza-Hiradhi should not be interfered with or disturbed by the opposite parties in any manner whatsoever”.

It is submitted by Mr. Raut that the suit being Title Suit No. 101/2010 is posted for further hearing on 19th September, 2023. Therefore, this revisional application may be disposed of with a direction upon the parties to follow the order passed on 19th September, 2014 till disposal of the suit.

Mr. Ghosh with all fairness submits that order passed by Ho’ble Mr. Justice Sanjib Banerjee on 19th September, 2014 may be continued but learned Trial Court may be directed not to get influenced by the observation made in the aforesaid order. When the witness action has started, having considered the

submissions at the bar, I do not find that anything is left to be decided in this revisional application.

The parties are directed to act in terms of the direction given by Hon'ble Mr. Justice Sanjib Banerjee on 19th September, 2014 while disposing of CAN 9432 of 2014 till disposal of the suit. The impugned order is set aside.

Learned Trial Court shall decide the issue independently based on the evidence on record in accordance with law.

This revisional application is, thus, disposed of.

Let a copy of this order be sent down to the learned Trial Court forthwith.

(Siddhartha Roy Chowdhury, J)