

08.02.2023
Item No.6
Ct. No.7
CHC
(disposed of)

C.O. 2837 of 2022

Nishakar Dhara & anr.
Vs.
Ramprasad Ghosh & ors.

Dr. Barindra Narayan Ray,
Ms. Saachi Agarwal

...for the petitioners

Mr. Mihir Kundu

...for the opposite parties

Refusal of injunction in Misc. Appeal No.13 of 2022 of learned District Judge, Purba Bardhaman is under challenge in this case.

Learned advocate appearing for the petitioners submits that subsequent to the rejection of the prayer for injunction, a situation has been developed so as to get the petitioners dispossessed, which is strongly denied by the learned advocate for the opposite parties.

Upon perusal of the impugned order, it appears that the Misc. Appeal is pending before the lower appellate court, and due to non appearance of the appellants/petitioners, there has been a direction by the order dated 8th August, 2022, to file show cause for the non compliance of the courts order.

Admittedly, no show cause has been filed by the petitioners.

Learned advocate appearing for the opposite parties submits that when the appeal is pending, the alleged apprehension of dispossession of subject property may be decided in the pending Misc. Appeal.

It is, thus, contended by the learned advocate for the opposite parties that no interference by this Court, against the rejection of a prayer for injunction, is called for at this moment.

When there has already been a direction upon the court below to file show cause for the non compliance of the court's order, vide order dated 8th August, 2022, passed in Misc. Appeal No.13 of 2022, the revisional application stands disposed of with a direction upon the petitioners/appellants to file a show cause, as already ordered by the first lower appellate court on 8th August, 2022, within fortnight from the date of this order, to the court below, and if any such show cause is submitted by the petitioner, the same may be considered in accordance with the law.

Since the appeal is pending, this Court is of the view that the apprehension faced by the petitioners may be best addressed upon deciding the Misc. Appeal with utmost expedition.

All the points raised in this case are left to be decided in the Misc. Appeal within the peripheries of the Misc. Appeal.

The logical conclusion of the Misc. Appeal be reached within twelve (12) weeks from the date of communication of this order to the court below.

This order is passed without entering into the merits of the case, and without prejudice to the rights and contentions of the parties.

With this observation/direction, the revisional application stands disposed of.

Parties are directed to make communication of this order to the court below.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)