

05.10.2023  
Sl. No.17(DL)  
srm

**C.O. No. 3108 of 2023**  
**Sri Benarisilal Jaiswal**  
**Versus**  
**Promod Kumar Jaiswal**

Mr. Tapash Kumar Dey,  
Ms. Susmita Mondal,  
Ms. Saswati Ghosh Sinha

...for the Petitioner.

The revisional application arises out of an order dated July 27, 2023 passed by the learned Additional District Judge, Fast Track (2<sup>nd</sup> Court) at Sealdah, in Misc. Appeal No.25 of 2022.

By the order impugned, the learned lower appellate court dismissed the misc. appeal filed by the petitioner, *inter alia*, holding that the opposite party had satisfied the three golden principles for grant of temporary injunction. It was an admitted position that the opposite party was possessing not only the second floor of the house but a portion of the ground floor of the house as well. The documents, which were relied upon by the learned lower appellate court to justify that the opposite party had a right to be granted an order of *status quo* in respect of the suit property, were as follows:-

(a) Electricity connection was in the name of the opposite party.

(b) A trade licence was issued by the Kolkata Municipal Corporation in favour of the Aditya Traders which was the business owned by the opposite party and was being run from the suit premises.

(c) Receipts showing deposit of Value Added Tax (VAT) in respect of Aditya Traders.

(d) GST registration was in the name of Aditya Traders.

(e) Materials showing that the petitioner had a business in the suit property under the name and style of M/s. P.K. Traders.

(f) Two separate meters showing two different consumer numbers.

(g) A notice of eviction sent to the opposite party by the petitioner in respect of the entire second floor and part of the ground floor of the suit premises.

On the basis of the aforementioned documents, the learned lower appellate court came to a specific finding on fact that there was enough material to show that the opposite party was running a business under the name and style of Aditya Traders from the ground floor of the suit premises with valid trade licence, GST registration and upon payment of VAT. The

electricity connection in the name of the opposite party and the eviction notice written by the petitioner determining the licence had categorically mentioned the entire second floor and a portion of the ground floor.

Under such circumstances, those findings of fact cannot be re-appreciated or re-visited by the court, upon invoking powers under Article 227 of the Constitution of India. The learned lower appellate court had considered the balance of convenience and inconvenience, irreparable loss and injunction and *prima facie* case.

The materials which have been discussed in detail indicate that the order impugned is not perverse. Whether the father of the petitioner was running a business in the name of P.K. Traders or Sudha Enterprise, are not relevant for the purpose of grant of injunction, as the courts found that the father of the petitioner was also in possession of the suit premises and was running a business therefrom.

Under such circumstances, there is no scope for interference with the order impugned. The revisional application is dismissed.

The suit shall be disposed of on its own merits without being influenced by any of the observations made hereinabove.

There shall be no order as to costs.

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

**(Shampa Sarkar, J.)**