

October 10, 2023
Sl. No.40
Court No.19
s.biswas

CO 3145 of 2023
Sk. Haresh and others
vs.
Sk. Mofijul and others

Mr. Raghunath Das
Ms. Monalisa Das

... for the petitioners

This revisional application arises out of an order dated August 21, 2023 passed by the learned Additional District Judge, 1st Court at Contai, Purba Medinipur in Misc. Appeal nNo.12 of 2023.

By the order impugned, the petitioners' prayer for grant of ad interim order of injunction was refused by the learned lower appellate court. The learned lower appellate court came to the finding that the G.D. Entry no.946 dated August 20, 2023 recorded in the Egra Police Station, indicated that the petitioners had alleged that some of the defendants had tried to affix a padlock in the shop of the petitioners on August 10, 2023. The G.D. entry was made on August 20, 2023, i.e., just a day before the application for injunction was moved. In the application for injunction, such fact had not been disclosed. The court found that the circumstances in which the G.D. entry was made was not convincing. No other document was available either before the learned trial court or before the learned lower appellate court, which would indicate that the

defendants wrongfully tried to evict the petitioners from the alleged tenanted property.

Under such circumstances, both the learned trial judge and the learned lower appellate court rejected the prayer for ad interim order of injunction. The appeal has been fixed for SR&AD and hearing of the application for temporary injunction.

None of the courts found any material which would indicate that the petitioner's possession had been disturbed in any way.

This court is not a fact finding court and the supervisory jurisdiction cannot be exercised beyond the facts already noted by the learned courts below.

The revisional application is thus disposed of with a direction upon the learned Additional District Judge, 1st Court at Contai, Purba Medinipur to decide the application for temporary injunction and dispose of the same within two months from the next date fixed, on its merits.

All the parties are directed to act on the basis of the server copy of the order.

Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)