

07.12.2023
Sl. No.11(DL)
srm

C.O. No. 3298 of 2023
Dhaldighi Ahamedia Senior Madrasah
Versus
Nur Alam Miah & Ors.

Mr. Sounak Ghosh,
Mr. Sakhawat Khandakar,
Ms. Swati Jha

...for the Petitioner.

Despite service, none appears on behalf of the opposite parties. Affidavit-of-service is taken on record.

The revisional application has been filed challenging an order dated August 30, 2023 passed by the learned Civil Judge (Junior Division), Gangarampur at Buniadpur, Dakshin Dinajpur.

The learned court below rejected an application under Section 151 of the Code of Civil Procedure filed by the petitioner. The petitioner prayed for implementation of the ad interim order of injunction through police help.

The learned court below rejected the said application on the following grounds:

- (a) The plaintiff had a remedy by initiating a case of violation of the ad interim order.
- (b) The photographs did not establish that there was any change in the nature and characters of the suit property.

(c) The photographs did not indicate that those were in respect of the suit property.

(d) There was not merit in the claim of the petitioner.

Mr. Ghosh, learned Advocate appearing on behalf of the plaintiff/petitioner submits that the said order suffers from the following irregularities:-

(a) The construction was going on in violation of the ad interim order of injunction over a vacant land used by a madrasah.

(b) Unless the ad interim order of injunction was implemented by police, the situation would become irreversible and the construction would be completed.

(c) The remedy under Order XXXIX Rule 2A of the Code of Civil Procedure cannot stand in the way of the court to exercise inherent power and direct implementation of its own orders at the ad interim stage.

Having perused the application filed before the learned court below, this Court is of the view that the details as to how, and when and the manner in which the ad interim order of injunction was violated has not been mentioned. The only allegation is that a construction was being raised in violation

of the ad interim order of injunction. There does not appear to be any complaint either to the local authorities or to the police authorities with regard to such construction. In any event, the learned court was of the view that when the application for injunction was being heard, no order of police help was called for.

This Court does not find any illegality or material irregularity in the order impugned. The court applied its mind to the documents and photographs and had come to the conclusion that the pleadings did not substantiate the claim of the petitioner and that the photographs did not indicate that those were of the suit property.

The revisional application is disposed of without any interference.

However, if in the future there are violations, the petitioner is at liberty to approach the court for implementation of the order of ad interim injunction, in accordance with law.

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.)