

December 13, 2023
Sl. No.28
Court No.19
s.biswas

CO 3966 of 2023

Aditya Birla Housing Finance Limited
vs.
Sri Sujit Kumar Mitra and others

Mr. Avishek Guha
Ms. Akansha Chopra

... for the petitioner

The revisional application has been filed challenging the order dated September 21, 2023, passed by the learned Additional District Judge, Fast Track 1st Court, Howrah.

Mr. Guha, learned advocate for the petitioner submits that the order impugned suffers from a misconception of law and error apparent on the face of record.

According to Mr. Guha, the bank could not be enjoined from proceeding against a person who is a borrower and who had not paid up the loan.

It is further submitted that the suit itself is not maintainable in law.

In my opinion, the remedy of the petitioner, challenging the maintainability of the suit, is before the learned civil court and not before this forum. Secondly, the bank has not been enjoined from proceeding in accordance with law. Noting that the plaintiffs were in possession, an interim protection in the nature of status quo with regard to nature, character and possession of A and B Schedule

property has been passed, pending disposal of the injunction application.

The bank can raise all the issues in their objection and pray for necessary orders for vacating the interim order as well. The learned civil court will decide the matter.

The revisional application is dismissed.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)