

11-05-2023
Court No.3
Sh/30.

**In The High Court At Calcutta
Jalpaiguri Circuit Bench**

C.O. 46 of 2023

Smt. Uma Dutta & Anr.
-Vs-
Nayan Das & Ors.

Mr. Kunljit Bhattacharyya,
Mr. Salok Sah,

..For the Petitioners.

Being aggrieved and dissatisfied with the order dated 17th January, 2023 passed by learned Civil Judge Junior Division, 2nd Court, Jalpaiguri in Title Suit No. 248 of 2020, the present application under Article 227 of the Constitution of India has been preferred.

The petitioners herein contended that the petitioners as plaintiffs filed the said suit wherein he has also filed an application seeking injunction. Learned Court below after hearing the petitioners/plaintiffs was pleased to grant an ad-interim order of injunction on 16th October, 2020, which was extended from time to time.

In or about November, 2022 the plaintiffs/petitioners came to know that the defendants/opposite parties are making attempt to violate the order of injunction. Understanding the same, the petitioners herein filed an application under Section 151 of the Code of Civil Procedure praying for implementation of the order through police help on 22nd November, 2022.

Learned Court below by the impugned order held that the injunction order was passed on 16th October, 2020 and as plaintiffs have filed the said application under section 151 of the Code of Civil Procedure (Code) for implementation of the order after two years so the Court below did not find urgency to hear the said application and was further pleased to keep the said application in abeyance till further order.

Petitioners in the present application have made a humble prayer that a direction may be given to the Court below for early disposal of the said application filed by the plaintiffs under Section 151 of the code.

Since the aforesaid prayer is innocuous and if an order is passed in terms of the said prayer the opposite parties will have no cause to prejudice, the service of the application and the notice upon the opposite parties are dispensed with.

Considering the fact that the prayer made by the petitioners is justified and not prejudicial to either party, a direction may be passed upon learned Civil Judge, Junior Division 2nd Court, Jalpaiguri to dispose of the plaintiffs' aforesaid application within a specified time period.

I am told that the next date is fixed for hearing of said suit is 30th May, 2023 and I have been further informed that the defendants no. 1 to 4 have already filed written objection to the plaintiffs' said application under Section 151 of the Code.

In such view of the matter, the court below is directed to hear out and dispose of the said application dated 22.11.2022 under Section 151 of the Code filed by the plaintiffs by 30th May, 2023 and if due to some unavoidable circumstances, it could not be disposed of on that date then the Court below is directed to make every endeavour for disposal of the said application within a period of four weeks thereafter.

C.O. 46 of 2023 is thus disposed of.

Photostat Certified copy of this order, if applied for, be supplied to the learned advocates appearing for the parties expeditiously subject to compliance of all requisite formalities.

(Ajoy Kumar Mukherjee, J.)