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01.02.2023
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**In the High Court at Calcutta
In the Circuit Bench at Jalpaiguri**

C.O No. 80 of 2022

**Kumar Ajitesh Narayan
-Vs.-
Kumar Indrajit Narayan & Ors.**

Mr. Nitish Samanta,
Mr. Samiran Mondal
... for the petitioner

Mr. Kunaljit Bhattacharya,
Mr. Haider Ali
... for the opposite party no. 1

The present challenge has been preferred against an order passed in miscellaneous appeal refusing the petitioner's prayer for ad interim injunction.

It transpires upon hearing learned counsel for the parties that the petitioner herein has instituted a suit for partition in which the opposite party herein also made an application for temporary injunction which was refused at the interim stage.

The miscellaneous appeal itself has been preferred against the said ad interim refusal by the trial court.

Hence, if this court interferes at this stage, the same may tantamount to pre-judging the issue pending for decision in the miscellaneous appeal as well as the injunction application.

As such, this court is not inclined to interfere with the impugned order at this juncture.

Accordingly, C.O No. 80 of 2022 is disposed of without interfering with the impugned order.

However, it is made clear that the merits of the contentions of the parties have not been gone into and the Additional District Judge, Second Fast Track Court at Jalpaiguri is requested to hear out and dispose of Miscellaneous Appeal No. 1 of 2020, pending before the said court, as expeditiously as possible, preferably within three months from the date of communication of this order to the said court.

It is pointed out by learned counsel for the opposite party no. 1, rightly, that the number of the miscellaneous appeal has been erroneously depicted in the cause title as well as in the prayer portion of the present application under Article 227 of the Constitution of India. However, since both parties are agreeing that the miscellaneous appeal is of the year 2020, no leave is required to be granted to rectify the cause title.

(Sabyasachi Bhattacharyya, J.)