

30.08.2023
sl No.57
Court No.3
sk

***Circuit Bench of Calcutta High Court
At Jalpaiguri***

CO 53 of 2023

In the matter of : Basudev Paul

Petitioner.

Mr. Utpal Bose, Ld. Sr. Adv.
...for the petitioner.

Mr. Sudipto Kr. Mazumder, Ld. Sr. Adv.
Mr. Sudip Kr. Paul
Mr. Saptak Sarkar
...For the O.P.

Heard Mr. Bose, learned senior counsel for the petitioner and Mr. Mazumder, learned senior counsel representing the opposite party.

This application under Article 227 of the Constitution of India is manifestation of the displeasure of the petitioner over the order dated 20th April, 2023 passed by the learned Additional District Judge, 1st Court at Siliguri in Misc. Appeal No. 04(03) of 2023.

By the impugned order learned Additional District Judge refused to interfere with the order passed by the learned trial court, thereby refusing to entertain the prayer for ad interim ex parte injunction made by the plaintiff.

After admission of this revisional application the Co-ordinate Bench was pleased to direct the parties to maintain status quo with regard to the schedule-B property and also restrain the defendant from interfering with the possession of the plaintiff with respect to the Schedule-B property.

In my humble opinion, this revisional application should be disposed of with the direction upon the learned trial court to dispose of the temporary application after giving opportunity to the parties to exchange their pleadings and the interim order passed by the Co-ordinate Bench on 29th May, 2023 should be made absolute.

Mr. Mazumder, learned senior counsel for the opposite party submits that the plaintiff/petitioner may be directed to withdraw the appeal. The interim order instead of being made absolute, may be allowed to continue till disposal of the petition for temporary injunction.

Mr. Bose, learned senior counsel submits that the Misc. Appeal pending before the learned Additional District Judge will not be pressed.

The interim order may continue till the disposal of the temporary injunction application pending before the learned trial court.

Under such circumstances, the revisional application is disposed of with the following direction:-

The interim order passed on 29th May, 2023 shall remain in force till the disposal of the petition for temporary injunction pending before the learned trial court.

Learned trial court shall dispose of the temporary injunction application as early as possible without being influenced by any of the observations made by this court while passing the interim order.

Copy of the order be sent down to learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury,J)