

**Item 19.09.
No. 2024
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**Ct
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IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

C.O. 92 of 2022

**Sri Nikhil Kumar Ghosh
Vs
Seema Mondal @ Sima Mondal & Ors.**

Mr. Partha Pratim Roy,
Mr. Sarbananda Sanyal,
Mr. Samrat Chakrabroty.

.... for the petitioner.

Mr. Mukteshwar Maity,
Md. Hasanuz Zaman,
Ms. Nupur Chaudhuri.

.... For the opposite parties.

1. Affidavit of service is filed on behalf of the petitioner in court today and the same be taken on record.
2. This revisional application has been preferred challenging the order dated 28.07.2021 passed by the learned Civil Judge (Senior Division), Kandi, Murshidabad in connection with Partition Suit No. 296 of 2021, wherein learned Judge passed an order allowing an application under Section 151 of the Code of Civil Procedure directing Officer-in-Charge, Salar Police Station to look into the matter and implementation of the interim order passed by the Court on 02.07.2021.
3. Mr. Partha Pratim Roy, learned counsel appearing on behalf of the petitioner/defendant has

submitted that police help was allowed without verifying any documents. In support of contention he relied on a decision reported in **2020 SCC OnLine Cal 2414** in the case of **Gouri Das and Others versus Nani Bhattacharjee and Others**, wherein the Co-ordinate Bench of this Court observed in paragraph 13 which runs as follows:-

13. It is not desirable that an order for police help should be made on the mere asking of a party without being supported by any cogent materials, indicative of violation or disobedience caused to the order of injunction and/or at least an attempt to violate or disobey the order. Since the inherent power exercisable under Section 151 C.P.C. presupposes exercise of the same with much care, caution and circumspection, on due satisfaction of the court, the Trial Judge thus felt obliged to come to a definite finding that the party asking the court to favour him with an order of police help was successful to show that there left no iota of doubt in his attempt of petitioner to establish attempted or actual violation of the injunction order, without which the prayer for police help should not be acceded to.”

4. Per contra, Mr. Mukteshwar Maity, learned counsel appearing on behalf of the opposite party/plaintiff has submitted that the impugned order was passed by the learned Judge directing the Officer-in-Charge to look into the matter so that the interim order passed by the Court is implemented.
5. After careful scrutiny of the entire order dated 28.07.2021, I find that learned Judge allowed the prayer for police help invoking Section 151 of the Code of Civil Procedure without assigning any reason, which is, in my opinion, is not sustainable

in law.

6. Regard being had to above, the order dated 28.07.2021 in connection with Partition Suit No. 296 of 2021 passed by the learned Civil Judge (Senior Division), Kandi, Murshidabad stands set aside.
7. Learned Civil Judge (Senior Division), Kandi, Murshidabad is directed to rehear the application under Section 151 of the Code of Civil Procedure after giving an opportunity of hearing to the parties to the suit and to pass an order with reasons.
8. With this observation and direction, the revisional application stands disposed of.
9. Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.
10. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Bibhas Ranjan De, J.)