

29.01.2024
Sl. No.16(DL)
srm

C.O. No. 202 of 2024
Sri Suvendu Chattopadhyay
Versus
Sri Sneha Ranjan Roy

Mr. Sharanya Chatterjee,
Mr. Ayaskanta Ghosh

...for the Petitioner.

The petitioner is aggrieved by an order dated December 11, 2023 passed by the learned Civil Judge (Senior Division), 2nd Court, Asansol, in Misc. Appeal No.53 of 2023. By the order impugned, the learned court passed an order of extension of the order of stay, which was already granted earlier.

It is contended by the petitioner that in C.O. No.4062 of 2023, another learned coordinate Bench had observed, *prima facie*, that the stay could not have been granted in the Misc. Appeal, on the first day. The matter was made returnable. The said revisional application is still pending.

The issue is whether in the miscellaneous appeal the appellate court could pass an order of stay of the ad interim order passed by the learned trial judge. Granting such stay would amount to allowing the miscellaneous appeal at its very inception.

This Court finds merit in the submission of the petitioner, but this Court is of the view that keeping the revisional application pending by directing service upon the opposite party would amount to unnecessary delay. Moreover, this Court also cannot pass an order of stay over the order passed by the learned lower appellate court as the same would also amount to allowing the revisional application at its inception.

Under such circumstances, the revisional application is disposed of with a mandatory direction upon the learned Civil Judge (Senior Division). 2nd Court, Asansol, Paschim Bardhaman, to dispose of the miscellaneous appeal along with the stay application within a period of three weeks from the next date fixed, without granting any adjournment to any of the parties. The issue involved is whether an ad interim order of *status quo* should have been granted by the learned trial judge in the suit for declaration and permanent injunction. The miscellaneous appeal involves a very short question which shall be disposed of within the time fixed.

Accordingly, the revisional application is disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)