

Item No. 06

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IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

C.O. 191 of 2020
With
IA No. CRAN 1 of 2021
CRAN 4 of 2022

C & C Real Estate Private Limited
Vs
Sk. Abdul Subhan & Ors.

Mr. Saptangsu Basu, Sr. Adv.
Mr. Subhankar Nag,
Mr. Snehasis Sen. ... for the petitioner.

Mr. Lakshmi Nath Bhattacharya. ... for the OP No.1.

1. Both learned counsel appearing on behalf of the parties to this revisional application are present.
2. By this revisional application the order No. 62 dated 01.10.2019 whereby learned Wakf Tribunal rejected the application for modification of order No. 45 dated 08.06.2017 with cost of Rs.2000/- with the observation that the order dated 08.06.2017 had already been modified by the Hon'ble High Court.
3. Heard both the learned counsel appearing on behalf of the parties to this revisional application.
4. It is submitted by the learned counsel appearing on behalf of the parties to this revisional application that they had already entered into a settlement with regard to modification of injunction order to the

effect of a portion of entire land mentioned in the scheduled to the plaint.

5. Both the learned counsel have drawn my attention to the order passed by the Hon'ble Justice Sanjib Banerjee in connection with CO 2396 of 2017 wherein Hon'ble Justice Banerjee accepted the settlement between the parties with regard to modification of the injunction by recording following order:

“Since the disputes between the principal parties herein stand resolved, leave is given to the petitioner herein and the opposite party nos. 1 and 2 to file the terms of settlement dated January 4, 2018 before the Waqf Tribunal.

6. On careful scrutiny of the order impugned, I find that learned Tribunal refused to modify the above order passed by the Hon'ble Justice Banerjee.
7. By the order dated 04.01.2018 in connection with CO 2396 of 2017 Hon'ble Justice Sanjib Banerjee accepted the terms of settlement arrived at between the parties to the revisional application and directed them to file the terms of settlement dated 4th January, 2018 before the Wakf Tribunal, but instead of accepting that terms of settlement for modification of injunction order, Wakf Tribunal found it justified to reject the application even with cost of Rs.2000/-.
8. Given facts and circumstances, I find that the order passed by the learned Wakf Tribunal suffers from

illegality in itself and liable to be set aside.

9. Accordingly, the order impugned stands set aside.
10. From the earlier order passed by the Hon'ble Co-Ordinate Bench of this dated 04.01.2018 in connection with CO 2396 of 2017 settlement between the parties was accepted and, therefore, I find no difficulty to modify the injunction order Under Order 39 Rules 1 and 2, which was initially promulgated on interim basis on 14.01.2015 in respect of entire land mentioned in the scheduled to the plaint, and that interim order was further made absolute by the order dated 08.06.2017 in respect of entire property mentioned in the scheduled to the plaint.
11. It is pertinent to mention here, that both the parties to this suit entered into a settlement regarding modification of injunction order to the effect of a portion of land instead of entire land mentioned in the scheduled to the plaint.
12. Considering all facts and circumstances discussed above, I find it necessary to modify the injunction order dated 08.06.2017 in the following:

Both the parties are directed to maintain status quo position over the property of 5 Bighas of land out of 25 Bighas in Sapkhali Mouza as mentioned in the settlement arrived at between the parties on 04.01.2018 in terms of order passed by the Hon'ble

Co-ordinate Bench of this Court in connection with CO 2396 of 2017, till the disposal of the Suit.

13. With the aforesaid observation, the revisional application stands disposed of with a direction upon the Wakf Tribunal to dispose of the suit as expeditiously as possible preferably within a period of six months from the date of communication of this order as the suit is pending since 2014.
14. Accordingly, connected applications, if any, also stand disposed.
15. All parties shall act on the server copies of this order duly downloaded from the official website of this Court
16. Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.d.

(Bibhas Ranjan De, J.)