

19.03.2024
Court No. 19
Item no.54
CP

C.O. No. 325 of 2024

Ashok Kumar Roy
Vs.
Avijit Lahiri & anr.

Mr. Sujit Bhattacharya
Mr. B. Mukherjee

....for the petitioner.

This court does not find any reason to interfere with the order impugned, as the learned Civil Judge (Junior Division) 2nd Court at Sealdah rightly rejected the application seeking repair of the premises. The plaintiff filed an application under Section 151 of the Code of Civil Procedure in Title Suit No. 178 of 2002, praying for an order to allow extensive repair, renovation, alteration.

The defendants raised objection on the ground that the schedule of repair was vague and the plaintiff failed to mention the exact location in the building where such repair work were to be undertaken. There were also common areas which were well maintained and did not require any repair. The application was filed without any prayer for local inspection. In order to ascertain whether such repair/renovation/addition/alteration was at all required, a local inspection was necessary. Prayers were made for repairing the common installations and common pipelines. According to the defendants,

the said water pipelines were functioning properly. The beam could not be repaired, as the stability of the entire building would be compromised.

The learned court found that an application for temporary injunction was filed by the plaintiff and parties were directed to maintain status quo till disposal of the suit. The court was also of the view that the plaintiff did not approach the corporation seeking permission before undertaking such massive repair. Thus, only on the verbal submission of the plaintiff that the building needed such extensive repair the application under Section 151 could not be allowed.

This court is of the view that the learned court has not erred in passing the order impugned. Without any local inspection, without any specification, without any permission from the corporation, the repairs which have been mentioned could not be undertaken.

With regard to the cleaning of the overhead tank, the petitioner is at liberty to approach the learned court in accordance with law. Clean and pure water is essential for daily life. The learned court shall dispose of such application, if filed, in accordance with law upon hearing all the parties.

The revisional application is accordingly disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)