

S/L 9-11
03.7.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 4106 of 2023
With
CO 2065 of 2023
With
CO 537 of 2024

Magnet Construction Pvt. Ltd. & Anr.
Vs.
Abdul Kalam & Ors.

Mr. Haradhan Banerjee
Md. Nurul Haque
Mr. Sourav Sen
Sk. Afrojul Haque

...for the Petitioners.

Mr. Partha Pratim Roy
Mr. Archishman Chakraborty

...for the Opposite Parties.

These three revisional applications are taken up for analogous hearing and disposal as all are arising out of the selfsame Miscellaneous Appeal No.180 of 2023.

The said Miscellaneous Appeal is directed against the order dated May 30, 2023 passed by the 1st Court of Additional Civil Judge (Junior Division) at Alipore, District: 24 Parganas (South) in Title Suit No.771 of 2023.

The learned Trial Judge, by the said order, had refused to pass an *ad interim* of injunction on an application under Order XXXIX Rules 1 & 2 of the Code of Civil Procedure filed by the plaintiffs/opposite parties.

The defendant nos.5 and 6 of the said suit are the petitioners of all these revisional applications.

The appeal Court below, vide order dated June 05, 2023, had passed an *ad interim* order of injunction in the said appeal directing the parties to maintain *status quo* in respect of the nature, character and possession over the suit property till July 05, 2023, which is the subject matter of challenge in CO 2065 of 2023.

The petitioners had filed an application under Order XXXIX Rule 4 of the Code praying that the said *ad interim* order of injunction be vacated and/or modified.

The appeal Court below, vide Order No.13 dated October 17, 2023, has dismissed the said application, which is the subject matter of challenge in CO 4106 of 2023.

The orders extending the said *ad interim* order of injunction passed in the connected Miscellaneous Appeal are under challenge in CO 537 of 2024.

The appeal Court below has dismissed the application under Order XXXIX Rule 4 of the Code as none of the grounds of the said provision of the Code are satisfied; this Court does not find any illegality and/or infirmity in the order dismissing the said application.

The Miscellaneous Appeal is pending since 2023. The scope of the said appeal is very narrow, therefore, no fruitful purpose would be served by keeping the revisional applications challenging the said *ad interim* order of injunction pending; instead, justice would sub served if the said Miscellaneous Appeal is directed to be disposed of expeditiously.

Accordingly, the 7th Court of learned Additional District Judge at Alipore, District: 24 Parganas (South), where the said Miscellaneous Appeal is pending, is requested to dispose of the said Appeal within a period of eight weeks from the date of communication of this order, and in doing so, shall not grant any unnecessary adjournment to either of the parties.

On February 26, 2024, an order of injunction was passed in these matters, directing the petitioners not to change the nature, character and possession of the suit property till March 31, 2024 or until further order(s), whichever is earlier. The said order of injunction was extended time to time and is still subsisting.

The said order of injunction shall continue till the disposal of the said Miscellaneous Appeal.

The appeal Court below shall decide the said Miscellaneous Appeal on its merit, in accordance with law, without being influenced either by the fact that this Court has retained the order of injunction passed in these matters or by the findings in the above mentioned order dated October 17, 2023.

Notwithstanding dismissal of the said application under Order XXXIX Rule 4 of the Code, the petitioners are at liberty to raise all the points taken in the said application in their written objection to the application for injunction filed by the plaintiffs in the said Miscellaneous Appeal.

CO 4106 of 2023, CO 2065 of 2023 and CO 537 of 2024 are disposed of with the above terms without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance of all requisite formalities.

(Biswajit Basu, J.)