

M/L 173
12.11.2024
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IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 1048 of 2024

Joyoti Dutta
Vs.
Indrajit Das & Anr.

Mr. Sourojit Dasgupta
Ms. Shanaz Parveen
... For the Petitioner.

1. The instant revisional application has been filed challenging inter alia, the order no.16 dated 19th January, 2024, passed by the learned Additional District Judge, 5th Court, Alipore (South 24 Parganas) in Misc. Appeal No. 327 of 2022, arising out of the order dated 14th September, 2022 in Title Suit No. 1403 of 2022, whereby the ad-interim injunction order passed in connection with the application filed in connection with the Misc. Appeal vide order no.2 dated 20th September, 2022 had been vacated and the Misc. Appeal dismissed on contest.
2. It is the plaintiff's/petitioner's case that the plaintiff/petitioner had filed a suit for declaration of an injunction. Simultaneously with the filing of the appeal, the plaintiff had also filed an application for injunction under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure. The learned Civil Judge (Junior Division), 5th Court, Alipore, by an order dated 14th September, 2022 was, *inter alia*, pleased

to refuse *ex parte* ad interim order of injunction at that stage.

3. Being aggrieved, the Misc. Appeal was filed. The plaintiff had also filed an injunction application and in connection therewith, an ad interim order of injunction was passed. The said ad interim order of injunction has ultimately been vacated and the miscellaneous appeal was dismissed.
4. Mr. Dasgupta, learned advocate appearing in support of the revisional application after arguing the matter for some time would submit that though the plaintiff/petitioner is aggrieved by the aforesaid order yet since, the injunction application is still pending, he would like to proceed with the injunction application. His only apprehension at this stage is the observations made by the learned Appellate Court should not interfere with the disposal of the injunction application.
5. Having heard the learned advocate representing the petitioner and considering the materials on record, I find that the learned Trial Judge had refused the injunction only at that stage. Challenging the same the plaintiff/petitioner by filing a Misc. Appeal and an application for injunction in connection therewith, had been enjoying an ad interim order till disposal of the Misc. Appeal on 19th January, 2024. I find

that the learned Additional District Judge has, however, specifically concluded that there is no scope to interfere with the impugned order passed by the learned Trial Court and had consequentially vacated the interim order and dismissed the appeal.

6. Having regard thereto, I find there cannot be any impediment in having the injunction application disposed of.
7. The learned Trial Court shall make an endeavour to hear out and dispose of the injunction application expeditiously, without being influenced by any of the observation made by the learned Additional District Judge, 5th Court, Alipore.
8. With the above observations and directions the revisional application, being CO 1048 of 2024 stands disposed of.
9. There shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)