

April 22, 2024  
Sl. No.32  
Court No.19  
s.biswas

CO 1141 of 2024

*Ranjan Dutta and another*  
*vs.*  
*Namita Datta*

Mr. Saurabh Guha Thakurata  
Ms. Nilanjana Sarkar  
Mr. Abhratanu Sarkar

... for the petitioners

Mr. Madhu Sudan Sarkar  
Mr. S. Sarkar

... for the opposite party

1. The revisional application arises out of an order dated February 29, 2024 passed by the learned Civil Judge (Senior Division), 2<sup>nd</sup> Court at Asansol, Paschim Bardhaman, in Misc. Appeal No.10 of 2024. The learned court restrained the men and agents of the petitioners from creating any disturbance with regard to the peaceful possession of the property.
2. Mr. Guhathakurata, learned advocate for the petitioners, submits that in an earlier partition suit, an order of status quo has been granted. The suit property is an ancestral property in which the petitioners also have a share along with the husband of the defendant. The suit property is a part of the property purchased by Smt. Arati Dutta, the mother of the petitioners as also the mother of the plaintiff's husband.
3. Contrary arguments were raised by the plaintiff. It is contended that the property involved in the suit is not a part of the common property

purchased by Smt. Arati Dutta. Mr. Guha Thakurata denies such contention.

4. The partition suit does not relate to the suit property. The issues are subject to proof. The misc. appeal is pending.
5. Under such circumstances, this court is of the view that both the parties should maintain status quo in respect of the suit property and other properties which are part of the partition suit, till disposal of the misc. appeal.
6. There is no dispute with the contention of the plaintiff that at present the plaintiff is in possession of the dwelling house. This court has not gone into the merits of the case and counter-case of the parties. Whether the learned trial judge was correct in holding that in view of the order passed in the partition suit, no restrain order can be passed upon the defendants/petitioners, shall also be decided in the misc. appeal. The parties are to maintain status quo as already directed in the partition suit.
7. The revisional application stands disposed of accordingly.
8. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

**(Shampa Sarkar, J.)**