

10.06.2024
(D/L-20)
Ct.-19
(Susanta)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 1275 of 2024

Babita Gupta
-Vs-
Amit Swaika & Anr.

Mr. Jayanta Samanta,
Ms. Karunamayee Samanta,
... For the Petitioner.

Ms. Soni Ojha,
Ms. Sambita B. Chatterjee,
Ms. Sonia Nandy,
.... For the Opposite Parties.

The plaintiff in a suit for declaration being Title Suit No. 211 of 2024 pending before the 5th Court of learned Civil Judge (Junior Division), Howrah is the petitioner of the instant revisional application under Article 227 of the Constitution of India.

The opposite parties, aggrieved by the ad interim order of injunction passed in the suit have preferred the connected Miscellaneous Appeal no. 38 of 2024 which is pending before the learned District Judge at Howrah.

The Appeal Court below by the order impugned dated March 11, 2024 has stayed the operation of the said ad interim order of injunction.

The such order of stay amounts to allowing of the appeal itself at the threshold [See **IN RE: GOUTAM KUMAR HADA** reported in (1994) 1 ILR

72 and *MOBASSOR HOSSAIN & ORS. vs. SHRI MANIK CHANDRA PAL & ORS.* reported in (2005) 2 Cal LJ 482]

The order impugned, therefore, is not sustainable and is accordingly set aside.

The learned Appeal Court below is requested to dispose of the said miscellaneous appeal as expeditiously as possible preferably within a period of six weeks from the date of communication of this order and in doing so, shall not allow the prayer of the parties for any unnecessary adjournment.

C.O. 1275 of 2024 is disposed of with the above terms without any order as to costs.

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

(Biswajit Basu, J.)