

**Item 05.11.
No. 2, 2024
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IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

C.O. 1454 of 2022

**Md. Obaidur Rahman
Vs
Smt. Urmila Misra**

With

C.O. 1455 of 2022

**Md. Saifur Rahman
Vs**

Smt. Urmila Misra

With

C.O. 2236 of 2022

**Md. Obaidur Rahman & Anr.
Vs
Sri Biswa Jyoti Misra & Anr.**

Mr. Soumak Bera,
Mr. Sana Naaz. ... for the petitioners.

Mr. Bellal Sheikh,
Mr. Protim Chakraborty. ... for the opposite parties.

1. Considering the identical nature of dispute, all three revisional applications are being disposed of via this common order.
2. All three revisional applications were filed by the petitioners namely Md. Obaidur Rahman and Md. Saifur Rahman. Petitioner Saifur Rahman filed Title Suit No. 1553 of 2021 and petitioner Obaidur Rahman filed Title Suit No. 1522 of 2021 and opposite parties in respect of CO No. 1454 of 2022

and CO 1455 of 2022 filed Title Suit No. 1655 of 2021.

3. Petitioners in respect of CO 1454 of 2022 and CO 1455 of 2022 filed their respective suits with a prayer for declaration of tenancy right along with consequential reliefs. On the other hand, opposite parties in respect of all three revisional applications filed Title Suit No. 1655 of 2021 claiming declaration of ownership over the subject-property along with consequential reliefs.
4. Plaintiffs in respect of all three suits being Title Suit No. 1553 of 2021, Title Suit No. 1522 of 2021 and Title Suit No. 1655 of 2021 filed their respective prayer for *ex parte* ad interim injunction before the Court of learned Civil Judge (Junior Division), 6th Court, Alipore, who, in turn, refused to pass any ad interim order of injunction in the absence of rival parties, without going into *prima facie* case.
5. Being aggrieved, both the plaintiffs/petitioners in connection with Title Suit No. 1553 of 2021, Title Suit No. 1522 of 2021 filed separate Misc. Appeals being Nos. 261 of 2021 and 262 of 2021. On the other hand, opposite parties of the instant revisional applications also filed Misc. Appeal being No. 5 of 2022 challenging the order of refusal of ad interim order of injunction.
6. Learned Additional District and Sessions Judge,

10th Court, Alipore took up all the three aforesaid Misc. Appeals and disposed them of by a common judgement dated 30.04.2022, wherein learned Judge dismissed the Misc. Appeals being Nos. 261 of 2021 and 262 of 2021 filed by the Md. Saifur Rahman and Md. Obaidur Rahman respectively, but allowed the Misc. Appeal being No. 5 of 2022 filed by the opposite parties of all three instant revisional applications, recording an order of setting aside the order dated 23.12.2021 in connection with Title Suit No. 1655 of 2021 and restrained the defendants/petitioners herein from changing in any way or manner the nature and character of the subject premises.

7. On careful perusal of the all three revisional applications with connected documents it has come to the notice of this Court that learned Civil Judge (Junior Division), 6th Court, Alipore did not allow the interim prayer for hearing the rival parties in connection with all three suits filed by the parties to these revisional applications.
8. On careful scrutiny of the impugned judgement dated 30.04.2022 passed by the learned Additional District Judge, 10th Court, Alipore, it has come to my notice that learned Judge has discussed the merit of the disputes of the suits though the injunction application under Order 39 Rules 1 and

2 of the Code of Civil Procedure is still awaiting for disposal by the Trial Court.

9. So far as the order passed by the learned Appellate Court is concerned, I do not find any reason to interfere with the ad interim order of injunction passed in connection with Title Suit No. 1655 of 2021, wherein respondents/petitioners herein were restrained from changing any nature and character of the subject premises as the injunction application under Order 39 Rules 1 and 2 of the Code of Civil Procedure is still awaiting for disposal. Further, it appears that all the contesting parties to the suits are on record and it is the duty of the Trial Court to dispose of all the applications under Order 39 Rules 1 and 2 of the Code of Civil Procedure to permanently set the dispute at rest.
10. With the aforesaid observation, all the three revisional applications are disposed of via this judgment with a direction upon the learned Civil Judge (Junior Division), 6th Court, Alipore to dispose of all the injunction applications under Order 39 Rules 1 and 2 of the Code of Civil Procedure in connection with all three suits being Title Suit No. 1553 of 2021, Title Suit No. 1522 of 2021 and Title Suit No. 1655 of 2021 without being influenced by any of the observation made in the body of the judgement dated 30.04.2022 passed by

the learned Additional District Judge, 10th Court, Alipore, preferably within a period of six weeks from the date of communication of this order.

11. Parties are at liberty to communicate this order to the learned Trial Court.
12. Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.
13. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Bibhas Ranjan De, J.)