

06.05.2024
Sl. No.13(ML)
srm

C.O. No. 1810 of 2023

Hazi Md. Siraj Ali @ Md. Siraj Ali

Versus

Salim Molla & Ors.

Mr. Pratim Chakraborty,
Mr. Muhammad Obaid

...for the Petitioner.

1. The revisional application arises out of an order dated May 31, 2022 passed by the learned Civil Judge (Junior Division), 1st Court at Barasat, North 24-Parganas, in Title Suit No.354 of 2022.
2. By an application under Section 151 of the Code of Civil Procedure, the petitioner/plaintiff, prayed for implementation of the ad interim order of injunction, with the help of the police. The ground taken in support of such application was that the defendants were trying to disturb the peaceful possession of the plaintiff. The learned court was of the view that the plaintiff had not been able to satisfy the court with cogent evidence that there had been violation of the ad interim order. In the absence of any urgency and in the absence of any evidence in proof of the allegation of violation of the

ad-interim order, police help should not be granted. The application was accordingly rejected.

3. The learned trial judge has exercised discretion. The court refused to invoke inherent power under Section 151 of the Code of Civil Procedure. On the factual aspect, the learned court came to a specific finding that the plaintiff had failed to establish any sense of urgency requiring an order of police help. The learned court also held that the plaintiff/petitioner had failed, *prima facie*, to satisfy the court with some evidence that the defendants were trying to carry out illegal activities on the suit plot, by violating the ad interim order.
4. This Court, under the general power of superintendence, cannot exercise powers to upset or alter or re-adjudicate the factual findings of the learned trial court. The power of this Court under Article 227 of the Constitution of India is to ensure that the courts and tribunals exercise jurisdiction within the scope of their authority, but not to correct mere errors.
5. The pleading at paragraph 4 of the application, which is quoted below, does not inspire this Court to hold that the learned trial judge had passed a perverse order.

“4) That the defendants are well aware about the order of injunction as passed by the Ld. Court. The plaintiff is a very old aged person and is suffering from different ailments. So taking that chance the defendants flouting the Ld. Courts order of injunction started disturbing the peaceful possession of Plaintiff and also canvassing that no Court’s order can stop their illegal motive and mention they do not agree with Ld. Court’s order and thus have no reason to follow the order passed by the Ld. Court.

6. That the plaintiffs have lodged a General diary being G.D.E. No.1706/2022 dated 25-04-2022 complaining about the illegal activities and about flouting the Ld. Court’s order of injunction. But the concern Police personnel have asked the Plaintiff to bring specific direction upon them to implement the Ld. Court’s order of injunction.”

7. The plaintiff has stated that by taking advantage of his age, the defendants were disturbing his possession. A general diary was also lodged. The plaintiff was required to specifically plead and somewhat prove the mode, manner, method, date and time of such illegal activities of the defendants. No such pleadings are available and the court could not act on such vague, inadequate and insufficient pleadings.
8. This Court is not inclined to interfere with the order impugned.
9. Accordingly, the revisional application is dismissed.
10. There shall be no order as to costs.

11. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)