

28.05.2024
Sl. No.10
g.b.
Court No.03

CO 1983 of 2024

Sri Parikshit Gandhi & Anr.

-Vs-

Sri Mahadev Adhikary

Mr. Rajendra Banerjee

Mr. Joy Chakraborty

Mr. Sandip Dinda

Ms. Ipsita Ghosh

.....For the Petitioners

The learned advocate for the petitioners submitted that the suit property belonged to one Sulochana Dasi Adhikary who had been a “sebait” in connection with the deity “Radha Binode Jew”. The present petitioners are the legal heirs of the aforesaid Sulochana Dasi Adhikary who has expired in the year 1999. During the lifetime of the aforesaid Sulochana Dasi Adhikary, the opposite party Mahadev Adhikary had been inducted into the suit property as a permissive possessor to the extent of one storied pucca house consisting of two rooms and a covered verandah without payment of any licence fee. On the request of the aforesaid opposite party, the legal heirs of Sulochana Dasi Adhikary allowed him to continue with such possession for certain years further. On 31.12.2023 the opposite party was asked to vacate the premise, which he denied. The opposite party had initiated a construction over the suit property on 12.02.2024 and consequently a suit was filed before the learned Civil Judge, Junior Division, 3rd Court at Asansol being TS No. 96 of 2024. Learned Civil Judge, Junior Division, 3rd Court at Asansol has passed an ad-interim order of injunction against the present opposite party restraining him from raising any construction over the suit property and/or changing the nature and character of the suit property till 18.03.2024 or

until further order. The opposite party being aggrieved by the aforesaid order filed a Misc. Appeal being case no. 14 of 2024 before the learned 1st Court, Civil Judge, Senior Division at Asansol. By Order no.2 dated 29.04.2024 passed by the learned 1st Court, Civil Judge, Senior Division at Asansol and considering the case and counter-case owing to the ownership and possession of the licence in respect of the suit property being challenged was convinced that the defendant had filed certain documents relating to his ownership by way of purchase as well as possession by filing parcha in respect of the suit property and stayed the order no. 2 dated 19.02.2024 passed by the learned trial court in Title Suit no. 96 of 2024 till 4th of June, 2024.

The learned advocate for the petitioners further submitted that the defendant had been continuing with the construction without any right, title and interest merely being a permissive possessor contrary to his claim of ownership since the property belonged to a seabait which could not be disposed of.

Both the parties would be present before the learned trial court on 4th June, 2024 and the learned trial court should take necessary steps in disposing of the Mis. Appeal No. 14 of 2024 on hearing both the parties. The defendant is restrained from further construction, if any, on the suit property till 4th June, 2024.

The learned advocate for the petitioners is to intimate the order passed by this court to the opposite party without fail so that the opposite party's presence is ensured before the learned trial court on 4th June, 2024.

The revisional application is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously after completion of all necessary formalities.

(Ananya Bandyopadhyay, J.)