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Ct. No. 04

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F.M.A. 730 of 2023
CAN 1 of 2023

Kalipada Naskar
Vs.
Sikha Naskar & Anr.

Mr. Sounak Bhattacharya,
Mr. Chandra Nath Sarkar,
Mr. Sounak Mondal,
Mr. Abhirup Halder.
... for the appellant.

Mr. Nilanjan Bhattacharya,
Mr. Abhilash Chatterjee,
Mr. Saikat Dey.
... for the respondent no. 1.

Re: CAN 1 of 2023

The plaintiff is the appellant before this Court. The application for ad interim order of injunction filed by him under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure is pending consideration before the Court.

The prayer for ad interim order has been refused by the Court by recording a finding that in the said application filed by the plaintiff there is no averments regarding transfer of schedule property by him.

After going through the application, we find that there is specific averments in this regard in the application, as contained in paragraphs 12 and 13 thereof.

The defendant/respondent no.1 has appeared. The defendant/respondent no. 2 in spite of due service has not appeared in this proceedings.

The application for interim injunction being pending before the Court below, we are of the view that the same is required to be disposed of after giving an opportunity to the parties to exchange their pleadings.

This Court allows two weeks time to file the

affidavit-in-opposition to the said application; reply thereto, if any, be filed within one week thereafter.

We find from the record of the instant appeal that the interim order was granted by this Court on 19th September, 2023 to the effect that the respondents shall not create any third party interest or part with possession of the alleged share of the appellant. We hereby extend the said interim order for a further period of eight weeks from date.

The Trial Court after allowing the period for exchange of pleadings as indicated above shall fix the date preponing the date so fixed on 2nd July, 2024, so as to dispose of the application within two weeks from the date of expiration of the period for exchange of pleadings.

However, we make it clear that the extension of the interim order passed by this Court does not entail any expression on the merit of the matter which is open to be considered by the Court below based on the pleadings to be filed.

The appeal and connected application are accordingly disposed of.

(Harish Tandon, J.)

(Madhuresh Prasad, J.)

