

03.01.2024
Sl. No.4(DL)
srm

C.O. No. 3035 of 2023

Sabir Alam

Versus

Joynal Abedin Mondal & Anr.

Md. Yunush Mondal

...for the Petitioner.

The revisional application has been filed challenging an order dated April 27, 2023 passed by the learned Additional District Judge, Fast Track, 3rd Court at Barasat, North 24-Parganas in Misc. Appeal No.10 of 2019.

By the order impugned, the learned lower appellate court directed that *status quo* with respect to the 'B' schedule property with intimation to the subsequent transferee about such order of *status quo* be maintained, provided the petitioner filed an indemnity bond of Rs.1,00,000/-.

The petitioner alleges that there was no occasion for the court to direct filing of the indemnity bond when the petitioner proved, *prima facie*, case and the balance of convenience and inconvenience was in favour of granting such order. The question of furnishing indemnity bond would not arise in such a case.

The learned court, upon holding that as the 'B' schedule property had already been transferred by the principal defendant in favour of his son, *status quo* with regard to the said property should be conditional. The subsequent transferee who was not a party to the transaction between the petitioner and the defendant, must be protected. Thus, to indemnify the subsequent transferee from any injury that may be caused owing to the order of *status quo*, such direction was passed upon the petitioner.

It appears that the learned lower appellate court considered the rival claims. The learned court also considered that the defendant was not in possession of the 'B' schedule property and an order on the 'B' schedule property would affect third party rights. It also appears that the learned trial Judge refused the ad interim prayer on the ground that no immediate urgency could be made out by the plaintiff.

Under such circumstances, this Court does not find any reason to interfere with the order impugned.

The impugned order was passed in an appeal from refusal to pass an ad interim order. Justice would be subserved if the application for injunction is disposed of upon contest.

The learned trial Judge is directed to dispose of the application for injunction, filed in connection with Title Suit No.1078 of 2018 within a period of two months from the date of communication of this order.

The observations made by the learned lower appellate court and by this Court are tentative and shall not affect the decision of the learned trial judge while deciding the application for temporary injunction.

The revisional application is, thus, disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)