

17.09.2024
Item No.8, DL
Ct.19
A.J.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 3195 of 2024

Arun Kumar Agarwal

-Vs-

Devanand Yadav @ Nepali Yadav

Mr. Tanmoy Mukherjee,

Mr. Ayanava Bhattacharyya,

Mr. Souvik Das,

Mr. Tapas Chatterjee.

.....for the petitioner.

Mr. S. Mukhopadhyay,

Mr. R. Singh.

.....for the opposite party.

A supplementary affidavit is filed on behalf of the petitioner; let it be kept with the record.

This is an application under Article 227 of the Constitution of India.

The petitioner is the plaintiff of the connected *Title Suit No. 16448 of 2014* pending before the 6th Court of the learned Civil Judge (Junior Division) at Howrah.

The plaintiff and defendant of the said suit are brothers.

The plaintiff is seeking eviction of the defendant from suit schedule 'B' property.

The plaintiff aggrieved by the refusal of the learned Trial Judge for an *ad-interim* order of injunction had preferred the connected *Misc. Appeal No.1213 of 2014*.

The learned Additional District Judge, Fast Track Court – III at Howrah by the order impugned dated March 19, 2024 has dismissed the said miscellaneous appeal.

Mr. Tanmoy Mukherjee, learned advocate for the petitioner submits that his client, for the last ten years had enjoyed an *ad-interim* order of injunction directing the parties to maintain *status quo* with regard to the nature and character of the entire suit of *schedule-‘A’* property which includes the suit of *schedule-‘B’* property; he prays that the said order of injunction be continued till the disposal of the suit.

Mr. S. Mukhopadhyay, learned advocate for the opposite party submits that the defendant is contesting the suit with a counter claim, as such, is interested for speedy disposal of the suit, and till such disposal, if the order of injunction which was subsisting during the pendency of the misc appeal is continued, his client has no objection, but the said order may not come in the way of the defendant to have separate water and electricity connection and also to apply for permission of the learned Trial Judge to execute necessary repair work of the structure on the suit *schedule-‘B’* property.

Having heard learned advocate(s) for the parties and on perusal of the records, it appears that justice would be sub-served if the disposal of the suit is expedited and till such time as agreed by the parties, the order of injunction directing the parties to maintain *status quo* with regard to the nature and character of the entire suit of *schedule-‘A’* property which includes the suit of *schedule-‘B’* property be continued.

It is however made clear that this order of injunction shall not prevent the defendant to apply before the learned Trial Judge to have a separate water and electric connection and to apply for repair work of

the structure on the suit *schedule 'B'* property. Such application(s) if are made, the learned Trial Judge shall decide the same in accordance with law after giving the plaintiff, opportunity to contest it.

The learned Trial Judge, while deciding the said application(s) or the suit, shall not be influenced by any of the observations made by the appeal court below in the order impugned.

In view of this order, nothing is left to be decided in the application for injunction pending before the learned Trial Judge, let it be treated as *disposed of*.

C.O. 3195 of 2024 is disposed of with the above terms without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)