

ML 41
02.04.2024
Court. No. 19
GB

C.O. 3552 of 2023

Subir @ Sarajit Naskar
Vs.
Susanta Naskar & Ors.

Mr. Kaustava Ranjan Chatterjee

...for the Petitioner.

1. The revisional application arises out of an order dated July 5, 2023, passed by the learned Fast Track 3rd Court at Howrah, District – Howrah in Misc. Appeal No.185 of 2022 arising out of Title Suit No.71 of 2008. The learned Civil Judge (Junior Division), 5th Court at Howrah rejected an application for injunction, upon coming to a specific finding that not a single document had been produced by the plaintiff to prove his right, title and interest in respect of the ‘B’ schedule property. The letter written by the gram panchayat did not indicate that there was any family settlement at the instance of the father. Rather, the sisters were not even made parties to the suit.
2. Such order was challenged in the misc. appeal. The misc. appellate court arrived at the following findings:-
 - a) That the plaintiff failed to substantiate his claim of exclusive right, title and interest in respect of the property.
 - b) The letter of the gram panchayat did not indicate that there was any family settlement

and the plaintiff had become the owner of the property.

c) The alternative prayers of the plaintiffs as the owner and then as the licensee reflected that plaintiff was in doubt about his status respect of the property in question.

d) Other documents and the contentions of the defendants indicated that, at best, the plaintiff could be a co-sharer.

4. There was no document before the court to show that any deed of family settlement was actually executed or prepared in the presence of the panchayat pradhan or the upa-pradhan. At best, the document signed by the panchayat authorities could be an attempt to settle certain disputes between the parties. There were certain insertions in the document which also gave rise to a doubt in the mind of the courts.
5. Under such circumstances, the courts did not find any prima facie case in favour of the plaintiff to grant any injunction. The courts were of the view that at the time of injunction, a mini trial was not required to be held. Based on the absence of a prima facie case of ownership and taking note of the balance of convenience and inconvenience, the application for injunction was rightly rejected by the learned Courts. This Court does not find any perversity in the orders impugned.

6. The revisional application is disposed of without any interference with the order impugned.
7. As the suits are proceeding analogously, the learned court is requested to expedite the same and dispose of the same within a year.
8. Accordingly, the revisional application is disposed of.
9. However, there will be no order as to costs.
10. All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)