

ML 73
28.03.2024
Court. No. 19
GB

C.O. 3660 of 2023

Sri Samrat Roy
Vs.
Smt. Swathi Dutta & Anr.

Mr. Partha Partim Roy,
Mr. Anirban Das

...for the Petitioner.

The revisional application arises out of an order dated August 9, 2023 passed by the learned District Judge, South 24 Parganas in Misc. Appeal No.277 of 2023. The misc. appeal arose out of an order dated July 31, 2023, passed by the learned Civil Judge (Junior Division), 5th Court at Alipore in Title Suit No.1135 of 2023.

By the orders impugned, the learned court had rejected a prayer for ad interim injunction. The learned trial judge was of the opinion that the petitioner, who claimed a declaration of his tenancy rights, had relied upon an unregistered deed of lease. On the basis of such unregistered deed of lease, such ad interim protection could not be granted. The petitioner preferred an appeal. Misc. Appeal No.277 of 2023 was registered. The learned District Judge, South 24 Parganas at Alipore refused the prayer for ad interim injunction on the ground that no rent receipts could not be shown to prove possession.

The law is well-settled. A lessee who claims to have been entered into a property on the basis of an unregistered deed of lease, shall be treated as a monthly tenant. It is also a

well-settled proposition of law, that no person in settled possession should be evicted without due process of law.

However, this Court finds that the learned appellate court had rightly held that without any rent receipts, it was difficult for the court to come to a finding on the prima facie case of the petitioner. The learned appellate court directed service of the memorandum of appeal and the application.

Considering the plaint case and the order of the learned appellate court, this Court does not find that any pressing urgency could be established for grant of ad interim injunction. The learned courts have rightly rejected such prayer. The learned District Judge, Alipore or the assignee court is directed to dispose of the misc. appeal within two months from date of communication of this order.

The observations made in this order are restricted to this proceeding and the learned court shall proceed strictly in accordance with law, on the merits and claims and counter-claims of the parties.

Accordingly, the revisional application is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)