

S/L 31
07.02.2024
Court. No. 3
Suvayan

CO 1278 of 2020

Aloke Nath Dey

Vs.

M/s. Saradha Realty Indian Ltd. & Ors.

Mr. Sudeep Sanyal

Mr. Snehasis Jana

Ms. Tutun Das

Mr. Chandrachur Lahiri

...for the petitioner.

Mr. Anand Farmania

Ms. Indumouli Banerjee

...for the opposite party nos. 3 and 4.

1. Both the petitioner and the opposite party Nos. 3 and 4 are represented by their respective learned Advocates.

2. Mr. Farmania, learned Advocate for the opposite party Nos. 3 and 4 filed a report dated 23.01.2024 as prepared by S.I. Sankha Chatterjee, O.C., Ghatal P.S. addressed to the Public Prosecutor of this High Court. Let the report be taken on record.

3. On perusal of the certified copy of the impugned order it reveals that the petitioner who is the plaintiff before the learned Trial Court has filed a suit for recovery of possession against the opposite party Nos. 1 and 2 herein in respect of the suit property by evicting the opposite party Nos. 1 and 2 therefrom on the ground of revocation of license.

4. From the impugned order it reveals further that the suit was fixed for *ex parte* hearing but the learned Trial Court declined to take *ex parte* hearing of the said

suit on the ground that the contesting defendant who is the opposite party No. 2 herein has been implicated in various criminal cases for which the suit property which was under occupation of the opposite party No. 2 herein as a licensee has been sealed by the police authority.

5. Under the common law, there cannot be any predicament in proceeding with a suit for recovery of possession even when there are pendency of various criminal cases. The subject matter of O.S. No. 66 of 2014 has got no connection and/or nexus with the pendency of any criminal cases as claimed to have been pending as against the opposite party No. 2 herein who according to the plaintiff is still in wrongful occupation of the suit property and which has been sealed by the police authority.

6. In view of such, the impugned Order No. 27 dated 22.12.2016 and impugned Order No. 48 dated 07.02.2020 as passed by learned Civil Judge (Senior Division), Ghatal, Paschim Medinipore in Other Suit No. 66 of 2014 are hereby set aside. Learned Trial Court is hereby directed to proceed with the O.S. No. 66 of 2014 in accordance with law and shall dispose of the said suit positively within a period of one month from the date of communication of this order.

7. With the aforementioned observation, the instant civil revision being CO 1278 of 2020 is allowed and disposed of.

8. Parties to act on the server copies of this order.

9. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)