

11.03.2024
SL.26, Ct.2
AJ.

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Civil Revisional Jurisdiction**

C.O. 12 of 2024

Smt. Mitali Roy

-Vs-

Smt. Kakali Roy Deb Singha & Ors.

Mr. Angshuman Chakraborty,
Mr. Arabinda Manna,
Ms. Tuktuki Mondal,
Mr. Pragyadip Roy Basunia.
...for the petitioner.

Mr. Subhasish Misra,
Mr. Satyajit Paul.
...for the opposite party
nos.1 to 4.

Ms. Binapani Singha.
...for the proforma
opposite party no.5.

Affidavit of service filed on behalf of
the petitioner be kept with the record.

The plaintiff in a suit for declaration
that the gift deed executed by his father in
favour of the defendants/opposite party
nos.1 and 2 in respect of the suit property is
void, the said suit being Title Suit No.35 of
2023 is pending before the learned Civil
Judge (Junior Division), Cooch Behar.

The Order No.10 dated December 06,
2023 whereby the learned Trial Judge has
dismissed an application filed by the plaintiff
for implementation of the order of injunction

passed in the suit by Police assistance is under challenge in the instant revisional application.

The learned Trial Judge has rejected the said application on the grounds that it is based on apprehended violation of the order of injunction and from the photographs produced to substantiate the said allegation, the suit property could not be identified.

Mr. Chakraborty, learned Advocate for the petitioner relying on the decision of the learned Single Judge of this Court in the case of **SRI PARESH CHANDRA DAS vs. SRI BIKASH KUMAR DAS & ORS.** reported in **2010(2) CLJ page 110** submits that where there is an allegation of violation of a subsisting order of injunction, the application for police help should be allowed.

Mr. Misra, learned Advocate for the principal defendants/opposite parties submits that his clients have no intention to execute any construction work over the suit property.

Having heard the learned counsel for the parties and on perusal of the materials-on-record, it appears that violation of the order of injunction is the pre-condition for

providing Police assistance to avoid recurrence of such violation but in the present case, materials are lacking to hold as such, and the ratio laid down in the decision cited by Mr. Chakrabarty differs with the present case on this score.

The order impugned therefore, does not call for any interference.

C.O. 12 of 2024 is dismissed without any order as to costs.

This order however shall not affect the right of the petitioner to renew his prayer with specific and better particulars of the alleged violation of the said order of injunction.

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

(Biswajit Basu, J.)