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**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

CO 121 of 2024

**Sri Uttam Kumar Podder & Anr.
Vs.
Sri Ashok Saha & ors.**

Mr. Bapi Sarkar
Mr. Chayan Moni Bhowal ...for the Petitioners

Affidavit of service filed by the petitioners is taken on record. In spite of service, the opposite parties are not represented.

The plaintiff/petitioner filed a Title Suit being TS no. 71 of 2023 against the defendants/opposite parties for a declaration that the plaintiffs have right, title and interest in the property and also for injunction to that effect. Learned court below by an order dated 13th April, 2023, was pleased to restrain the defendant from entering into the suit land and also from installing any kind of pillar in the boundary of the suit land causing damage or mischief with respect to the suit land till 8.6.2023. That order was extended from time to time but on 2nd December, 2023, no prayer for extension of the interim order was made on behalf of the plaintiff and he was also found absent without step on that

date. The ad-interim injunction order therefore was not extended.

The plaintiff/petitioner thereafter filed an application under Section 151 of the Code of Civil Procedure for restoration and re-imposition of the interim order granted vide order dated 13th April, 2023.

The main grievance ventilated in the present application is that the court below has not yet heard the said application filed on behalf of the petitioner on 7th June, 2024 and has fixed the said application for hearing on 7th October, 2024. The petitioners submit that since the ad-interim injunction order is not in force and the court has fixed a long date for hearing of his application for restoration and re-imposition of said ad-interim order, there is every likelihood that the plaintiff's interest will be prejudiced for not making early hearing of the injunction application.

Having considered the facts and circumstances of the case and that the main injunction application is pending for disposal for a considerable period of time though it is the mandate of order XXXIX, Rule 3A of the Code of Civil Procedure that court shall make endeavour to finally dispose of the injunction application within thirty days from the date on which the injunction

was granted without giving notice to the opposite parties, the present application being C.O. 121 of 2024 is hereby disposed of with a direction upon the court below to make every endeavour for disposal of the main injunction application preferably within a period of four weeks from the date of communication of the order after giving an opportunity to both the parties to contest.

However, I made it clear that I have not gone into the merits of the injunction application and the court below will dispose of such application without being influenced by any observation made herein.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Ajoy Kumar Mukherjee, J.)