

S/L - 2
6.12.2024
Court. No. 3
S.Kundu

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

C.O. 154 of 2024
With
CAN 2 of 2024

Asharia Promoters LLP
Vs.
Sri Nagendra Nath Ray & Ors.

Mr. Amit lal Chakraborti,
Mr. Bapi Sarkar,
Mr. Chayan Moni Bhowal

...for the petitioner.

Mr. Sandip Mandal,
Mr. Abhilash Mittal

...for the opposite party no. 2 to 5.

1. In a suit for injunction and declaration as also for other consequential relief, the plaintiff/petitioner had filed an injunction application before the Court of learned Civil Judge (Junior Division), 1st Court at Jalpaiguri which was registered as Title Suit No. 340 of 2024. Simultaneously an application with a prayer for *ad interim* injunction was also filed.
2. By Order No. 2 dated 24th June, 2024 the learned Court refused to pass any *ex parte ad interim* order. Being aggrieved a miscellaneous appeal was filed which was registered as Misc. Appeal No. 43 of 2024. An injunction application in connection with such appeal was also filed praying grant of *ad interim* order of injunction. By order dated 5th

July, 2024 the learned District Judge, Jalpaiguri refused to pass any ad interim order of injunction holding out that there is no urgency in granting the prayer for ad interim injunction.

3. Challenging the aforesaid order dated 5th July, 2024 the instant revisional application has been filed. On the aforesaid application being moved by order dated 6th September, 2024 a coordinate Bench of this Court taking note of the case made out by the petitioner as regards its ownership of the suit land by dint of purchase and possession thereof and further taking note of the case made out that the petitioner is being threatened by outsiders who have no right, title and interest in the suit property to be ousted and further noting the *prima facie* case, irreparable loss and need to afford protection had directed the parties to maintain *status quo* in respect of the suit property as regards possession thereof as on the date of filing of the suit being T.S. No. 340 of 2024. The opposite parties were further directed not to disturb the petitioner's peaceful possession over the suit property and not to create any threat as to the peaceful possession of the petitioner therein.
4. On the opposite parties being notified the matter was taken up for consideration on 11th November, 2024 when a coordinate Bench of this Court was

pleased to grant liberty to the opposite parties to file affidavit-in-opposition within two weeks, with a further direction to the petitioner to file reply thereto within a week thereafter and the interim order passed on 6th September, 2024 was extended for a further period of 15 days. Today, the matter has come up under the heading “Extension of Interim Order” an application for extension of interim order has been filed on 3rd December, 2024 after expiry of the validity of the interim order. The opposite party nos. 2 to 5 are represented, till date no affidavit-in-opposition has been filed.

5. From the submission made by the learned advocate representing the opposite party nos. 2 to 5 it would transpire that the opposite party nos. 2 to 5 are interested to have the injunction application heard out before the learned trial Court. Considering the submission made by the parties and taking note of the fact that the interim order had been granted by this Court on 6th September, 2024, taking note of the *prima facie* case, the balance of convenience irreparable loss and further the same having been extended on 11th November, 2024 in the presence of the opposite party nos. 2 to 5, and there being no application for vacating the interim order and since today the learned advocate for the opposite party

has expressed his intention to have the injunction application heard out before the trial Court.

6. I am of the view that no fruitful purpose will be served by keeping the instant revisional application pending.
7. Accordingly, let the revisional application be disposed of with the direction upon the opposite party not to disturb the peaceful possession of the petitioner over the suit property and not to create any threat as to possession of the petitioner therein till the disposal of the injunction application pending before the trial Court.
8. The opposite party shall be at liberty to file affidavit-in-opposition/written objection before the trial Court within a period of three weeks from date.
9. It is expected that the learned trial Court shall hear out and dispose of the injunction application on merit as expeditiously as possible preferably within a period of three months from the date of filing of the written objection before the trial Court. The order dated 24th June, 2024 passed by the learned Civil Judge (Junior Division), 1st Court at Jalpaiguri as also the order dated 5th July 2024 passed by the learned District Judge, Jalpaiguri in Misc. Appeal No. 43 of 2024 are set aside. The miscellaneous appeal being No. 43 of 2024 pending

before the Court of learned District Judge,
Jalpaiguri stands disposed of.

10. It is made clear that the learned trial Court shall
decide on the injunction application being
uninfluenced by any observations made herein.
11. The connected application being CAN 2 of 2024 is
accordingly disposed of.
12. Urgent Photostat certified copy of this order, if
applied for, be given to the parties upon
compliance with requisite formalities.

(Raja Basu Chowdhury, J.)