

Sl.8
04.03.2025
Court No.6
BP

C.O. 683 of 2025

Pradip Kumar Mukherjee
-versus-
Chanchal Ganguly

Mr. S.P. Dalapati
Mr. Asumdipta Santra
... for the petitioner

The learned Additional District Judge, Fast Track, 1st Court, Alipore, South 24 Parganas allowed the Miscellaneous Appeal No. 66 of 2024 by a judgement and order dated 31st January, 2025 thereby restraining the defendant /petitioner herein from evicting the plaintiff/opposite party herein from the suit premises without taking recourse to the due process of law and the petitioner herein is further prevented from disturbing the possession of the opposite party in the suit property till the disposal of the title suit.

Mr. Dalapati, learned advocate appearing for the petitioner submits that during the pendency of the suit as well as the miscellaneous appeal certain subsequent events have taken place. He submits that the suit premises has been demolished in the meantime and there is no existence of any premises and it is a vacant land.

After going through the judgement and order dated January 31, 2025 it does not appear that such points were raised by the petitioner herein in course of hearing of the miscellaneous appeal.

Mr. Dalapati, learned advocate appearing for the petitioner submits that though such points were raised,

the learned judge of the first appellate court did not record such submission. It is well settled that the statements of the learned counsels as recorded in the judgement are conclusive and cannot be allowed to be disputed by the party before the superior forum. Such party has to approach the learned Judge who passed the order and bring it to the notice of the same judge promptly : (See (1982) 2SCC 463)

Since it is contended by Mr. Dalapati that the submissions made by the learned advocate was not taken note of, this Court feels that the party should have approached the learned Judge of the First Appellate Court instead of approaching the Court under Article 227 of the Constitution of India.

In view thereof, the petitioner will be at liberty to approach the learned Additional District Judge, Fast Track, 1st Court, Alipore, South 24 Parganas with an appropriate application in that regard.

If any such application is filed the same shall be disposed of expeditiously after hearing the respective parties without granting any unnecessary adjournment to either of the parties.

With the above observation, C.O. 683 of 2025 stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)