

19.11.2025
DL. 2

Court No.34
Sg

C.O. 1606 of 2024

Sri Prabhash Aich & Anr.
Vs.
Sri Shiv Sankar Aich

Mr. Sandip Ganguly
Ms. Gargi Acharyya
....for the petitioners.
Mr. Pradip Kundu
....for the opposite party.

1. This revisional application has been filed against the judgement and order dated 23rd February, 2023 passed in Miscellaneous Appeal No. 27 of 2022 reversing the order passed in Title Suit No. 152 of 2022.
2. The present opposite party filed one title suit for declaration and injunction before the learned Civil Judge, (Junior Division), 2nd Court at Sealdah praying for a decree for declaration that the petitioners are not entitled to take possession of the suit by ousting them forcefully without due process of law as well as permanent injunction restraining present petitioners and men and agents from doing any illegal act of possession by evicting the plaintiff/opposite party from the suit room.
3. Learned advocate representing the petitioner, would submit that an Ejectment Suit No. 101 of 2023 has been filed by the present petitioner

against the opposite party for eviction. It is further submitted due to various ailment of the petitioner there was delay in filing the revisional application. However since the suit for eviction has been filed there remains nothing to be adjudicated. A copy of the plaint of Ejectment Suit No. 101 of 2023 as handed over to this Court, let it be kept with the record.

4. It is the specific case of the opposite party that he has permanently residing the suit premises in respect of two bed rooms with separate bath and privy on the first floor together with his family members since his childhood is living therein. However, the dispute arose between the present opposite party along with present petitioner which compels them to file suit for protecting his interest therein.
5. The learned Trial Court by virtue of the order dated 2nd April, 2022 and after considering the submission advanced by both the parties was of the view that a prima facie case is there in favour of the plaintiff but the balance of convenience and inconvenience is not found to be favour of the plaintiff. Accordingly the prayer for ad interim injunction was refused.
6. A miscellaneous appeal was filed against the same and the learned Appeal Court. After

considering the contentions of both the learned advocates, the learned Court observed that the appellant cannot be considered to be trespasser in the suit property as he was in possession in the suit property since long and further considered the electric bill and thereby set aside the order passed by the learned Trial Court directing the respondents not to disturb the present possession of the appellant and they should also be refrained from taking any steps to evict the present appellant forcefully without adopting the due process of law and the same will continue till disposal of the Title Suit No. 152 of 2022.

7. Being aggrieved the instant revisional application was filed. In course of the argument before this Court learned advocate representing opposite party submits that suppressing the fact of filing the subsequent suit for eviction and also denying the possession of the present opposite party, the present petitioner has been filed this revisional application and they have not come with clean hand. Their revisional application ought to have been dismissed at the threshold with costs.
8. It can be found that on the present petitioner did not utter a single word regarding filing of

the suit in this revisional application as well as in the supplementary affidavit in the year, 2024 filed before this Court when the suit was filed much earlier.

9. This Court expressed displeasure about the conduct of the present petitioner in suppressing the filing of the subsequent suit for eviction of the opposite parties. However, in view of the above that the eviction suit is pending the interest of the opposite parties ought to have been protected till disposal of such suit. Accordingly nothing can be found to interfere into such order.
10. Therefore, in view of the above discussion, this Court finds no merits in this revisional application and is liable to be dismissed. However, proceeding has been kept pending before this Court only to delay and drag the proceeding suppressing the fact of filing the suit for eviction, this civil revisional application stands dismissed with costs of Rs. 1,000/- to be paid to the High Court, Legal Services Authority.
11. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all parties.

(Chaitali Chatterjee (Das), J.)