

01.09.2025
Item No.1435 M/L
Court No.06.
S. De
265719

C.O. 1704 of 2024
With
I.A. CAN 1 of 2025
Liyakat Mondal & Ors.
Vs.
Zulfikar Ali Mondal & Anr.

Mr. Saptarshi Kr. Kundu, ...for the petitioners.

In re : CAN 1 of 2025

This is an application for restoration by recalling the order dated January 20, 2025, passed in C.O. 1704 of 2024.

After hearing the learned advocate for the petitioners and upon perusing the averments made in CAN 1 of 2025, this Court is satisfied that the petitioners were prevented by sufficient cause for not appearing when the civil revision application stood dismissed for default on January 20, 2025.

In view thereof, CAN 1 of 2025 stands allowed. The order dated January 20, 2025 stands recalled.

The civil revision application is restored to its original file and number.

In re : C.O. 1704 of 2024

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order being no.4 dated February 7, 2024 affirming the order being no.11 dated February 22, 2023, passed by the learned

Civil Judge, Junior Division, Kalyani in T.S. No. 54 of 2022.

By the order impugned, the miscellaneous appeal stood dismissed thereby affirming the order of temporary injunction passed by the learned Trial Judge.

The learned advocate appearing for the petitioners submits that the petitioners who are the defendants in the Title Suit No.54 of 2022 are in possession of plot no.235 by virtue of the deed of re-conveyance executed by the mother of the plaintiff in favour of the father of the defendant. He further submits that there is a typographical error in the deed of re-conveyance wherein instead of plot no.235, it was wrongfully mentioned as 253.

The opposite parties herein filed a suit for declaration of title and for permanent injunction in respect of plot no.235.

The learned Trial Judge after considering the materials-on-record passed an order of temporary injunction restraining the petitioners herein from dispossessing the plaintiffs/opposite parties from the suit property till the disposal of the suit.

Being aggrieved by such order, the petitioners preferred a miscellaneous appeal.

It is the specific case of the plaintiff that they are the owners of the plot no.235 by virtue of a deed of

purchase being no.7687 of 1967. It is the case of the defendants/petitioners herein that the mother of the plaintiff executed a deed of conveyance in respect of the said property being plot no.235 in favour of the father of the defendant being deed no.264 of 1968. It is not in dispute that in the schedule of the deed being no.264 of 1968 the plot number was mentioned as 253 and not 235.

The learned advocate appearing for the petitioners would contend that there was a typographical error in the deed of re-conveyance being no.264 of 1968 as the plot number was wrongfully mentioned as 253 instead of 235.

The suit plot is 235 and not 253. The purchase deed in favour of the plaintiffs/opposite parties, prima facie, shows that they are the owners in respect of plot no.235. However, the deed of re-conveyance indicates that the property which was re-conveyed is plot no.253. The schedule of the deed of re-conveyance has not been rectified till date. Whether there was a mistake while mentioning the plot number in the deed of re-conveyance is the subject matter of trial and cannot be decided at this stage.

The learned Judge of the appellant Court was right in holding that unless the order of injunction is maintained the petitioners/opposite parties will suffer irreparable loss and injury. Since the learned Trial

Judge and the learned Judge of the 1st Appellate Court passed an order of temporary injunction in favour of the plaintiffs/opposite parties herein by assigning cogent reasons in support of the ultimate conclusion, this Court is not inclined to interfere with such order under Article 227 of the Constitution of India.

With the above observations, C.O. 1704 of 2024 stands dismissed.

There shall be no order as to costs.

(Hiranmay Bhattacharyya, J.)