

AD-40
Ct No.16
17.01.2025
TN

CO 3541 of 2024

Gulgan @ Golehaar Bibi
Vs.
Ahsan Wasim and others

Mr. Chandra Sekhar Banerjee,
Mr. Shamit Dutta,
Ms. Madhumita Saha

.... for the petitioner

1. The present challenge arises out of a suit filed by the petitioner claiming to be a tenant in respect of the property and seeking permanent injunction restraining the defendants from preventing or creating any hindrance to the repair work sought to be undertaken by the petitioner in respect of her tenanted premises.
2. Initially the learned Trial Judge dismissed the application primarily on the ground that the petitioner failed to substantiate her tenancy. The matter was taken up in appeal by the petitioner. The learned Appellate Judge, although *prima facie* coming to the observation that the petitioner is a tenant in respect of the property, remanded the matter to the trial court to grant opportunity to the petitioner to produce reliable documents to show that the condition of the building was so poor that the same may adversely affect the safety of the petitioner.
3. In the circumstances of the case, I do not find any irregularity of the order of the appellate court, since

the petitioner was deficient in proving by cogent evidence or by local inspection that the condition of the suit building is such that it requires repair as sought by the petitioner.

4. Accordingly, there is no scope of interference in the present application under Article 227 of the Constitution of India.
5. Hence, CO 3541 of 2024 is dismissed without any order as to costs.
6. However, the learned Trial Judge is requested to dispose of the injunction application after remand as expeditiously as possible, preferably within one month from the date of communication of this order to the said court.
7. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)