

S/L 2
20.05.2025
Court No.2
SD

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CIVIL REVISIONAL JURISDICTION
CO 229 of 2024
CAN 1 of 2025

Indradhanush Gas Grid Limited
Vs.
Hajera Khatun & Ors.

Mr. Saptangshu Basu, Sr. Adv.
Mr. Milindo Paul
Mr. Nabankur Paul
Ms. Sutapa Sen Paul
Ms. Bedashruti Bose
Mr. Subham Das
Mr. Bodhisatya Ghosh

...for the Petitioner.

Mr. Debasish Mukhopadhyay
Mrs. Madhushree Dutta
Mrs. Srishti Sarkar

...for the Opposite Party Nos.1-12.

Affidavit of service and the certified copy of the order dated November 18, 2023 passed by the 2nd Court of learned Civil Judge (Junior Division), Jalpaiguri are filed on behalf of the petitioner; let those documents be kept with the record.

The matter though has been brought to the list for extension of the interim order but by consent of the parties, the revisional application is taken up for final disposal.

The instant application under Article 227 of the Constitution of India is directed against the judgment and order dated September 30, 2024 passed by the learned District Judge, Jalpaiguri in Miscellaneous Appeal No.69 of 2023 thereby reversing the Order No.2 dated November 18, 2023 passed by the 2nd Court of learned Civil Judge (Junior Division), Jalpaiguri in the said suit being Title Suit No.678 of 2023.

The plaintiffs, the opposite party nos.1 to 12 herein, in the connected suit, have filed an application under Order XXXIX Rules 1 & 2 of the Code of Civil Procedure. The learned Trial Judge by order dated November 18, 2023 had refused to pass an *ad interim* order of injunction on the said application.

The plaintiffs, aggrieved thereby have preferred the connected miscellaneous appeal.

The Appeal court below by the order impugned has set aside the order of the learned Trial Judge and has allowed the prayer of the plaintiffs for an *ad interim* order of injunction thereby directing the parties to maintain *status quo* with regard

to the nature, character and possession in respect of the suit property till the disposal of the suit.

Mr. Saptangshu Basu, learned senior advocate for the petitioner submits that his client is executing the Government project of laying down gas pipeline, as such, in view of specific restriction under Section 41 read with Section 20A of the Specific Relief Act, 1963, the Appeal Court below should not have granted the order of injunction.

He further submits that the Appeal Court below, by directing continuance of the order of injunction till the disposal of the suit, has enlarged the scope of the appeal inasmuch as the appeal was against an order refusing to grant an ad interim order of injunction.

Mr. Mukhopadhyay, learned advocate for the plaintiffs/opposite parties submits that the application for injunction may be directed to be disposed of expeditiously and till such time, the order of injunction passed by the Appeal Court below may be retained.

Heard learned advocate for the parties, perused the materials-on-record.

The petitioner is carrying on infrastructural development over the suit property as specified in the Schedule under Section 20A of the said Act of 1963, therefore the restriction in granting an order of injunction in terms of Section 41 and Section 20A thereof come into play.

Moreover, the Appeal Court below, by granting order of injunction till the disposal of the suit, has transgressed the scope of the appeal inasmuch as the appeal was against an order refusing to grant an ad interim order of injunction, the order impugned, for the aforesaid reasons, is not sustainable and is accordingly set aside.

This Court is informed that the defendant has already filed written objection to the application for injunction.

The learned Trial Judge is requested to dispose of the pending application for injunction on its merit expeditiously without being influenced by any of the observations made by the Appeal court below in the impugned judgment. In view of the nature of the application the learned Trial Judge shall not grant any unnecessary adjournment to either of the parties.

CO 229 of 2024 is disposed of with the above terms without any order as to costs.

In view of the disposal of the revisional application, the connected application for extension of interim order being CAN 1 of 2025 has become infructuous and is also disposed of accordingly without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance of all requisite formalities.

(Biswajit Basu, J.)