

23.02.2026
Court No. 06
Item No. 18
Sandip

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

C.O. 1334 of 2025

Sri Samiran Kumar Roy
-Versus-

Smt. Purabi Roy (Das) & Ors.

Mr. Tanmoy Mukherjee,
Mr. Souvik Das,
Mr. Rudranil Das

.....for the petitioner

Mr. Soumen Kr. Dutta,
Mr. Subham Dutta

....for the O.P. Nos. 6.

Mr. Arkadyuti Pahari,
Ms. Gargi Maity,
Mr. Alik Mandi

....for the O.P. Nos. 7 & 8.

1) The prayer of the plaintiff seeking permission to raise a construction during pendency of Title Suit No. 317 of 2023 had been rejected by the learned court upon considering the order of the High Court passed in a Mandamus Appeal.

2) Mr. Tanmoy Mukherjee, learned advocate for the petitioner submits that the proceeding before the High Court was initiated by the defendant no. 6 in the suit against the defendant nos. 7 and 8. Those defendants were enjoying their respective constructions, but were depriving the plaintiff from raising his residential house, although sanction was granted by the Municipality.

3) The sanction granted to the petitioner, by the municipality was not interfered with by the High Court. The construction made by the petitioner, was not in issue before the High Court. Thus, any order that may have been passed by the learned single Bench and by the Division Bench, of the High Court, was restricted to the respondent nos. 7 and 8. Nothing prevented the court from allowing the petitioner to raise his construction.

4) According to Mr. Mukherjee, the learned Court had applied the wrong facts to the prayer of the plaintiff, without making a distinction between the plaintiff and the defendants. The dispute involved in the writ petition and the appeal from the writ petition, did not pertain to the construction of the plaintiff.

5) The order impugned did not specifically deal with the plaintiff's right to raise the construction. The order primarily deals with the construction involved in the writ petition filed by the defendant nos. 6, against the construction of the defendant nos. 7 and 8. However, there is an observation in the order of the learned single Judge that no sanction should be allowed for construction in respect of the suit property till the disposal the suit.

6) Although, the sanction of the plan granted to the petitioner was prior to the order of the learned single Judge, in the writ petition, the matter has now acquired a different dimension altogether, as it appears that is Title Suit No. 155 of 2009 (re-numbered as Title Suit No. 37 of 2011), which is pending before the learned Civil Judge, (Senior Division), 1st Court at Contai, an order of status quo in respect of

the said suit property has been granted till the disposal of the suit. The petitioner is a defendant in the said suit.

7) Under such circumstances, the revisional application is disposed of without entering into the merits of issues involved in both the suits. The proper remedy of the plaintiff will be to approach the Court before which Title Suit No. 155 of 2009 renumbered as Title Suit no. 37 of 2011, is pending and take appropriate steps.

8) Accordingly, the revisional application is disposed of.

9) Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)