

Misc. Appeal No. 09 of 2023
C.N.R. No. WBJP-01-000523-2023
J.O. Code : WB00740

Order No. 03, Dated – 15.02.2023,

Today is fixed for admission hearing.

The instant appeal has been preferred against the impugned Order dated 06.01.2023 passed by the Learned Civil Judge, Junior Division at Jalpaiguri in Title Suit No. 226/2015 accompanied by an application for staying of operation of the impugned order.

Office Report shows that the instant appeal is duly stamped and filed in time and there is no caveat pending.

Let the appeal be admitted.

The stay application as filed by the appellant/ defendants is taken up for hearing.

Ld. Counsel appearing for the appellants submitted that the Ld. Court below was pleased to pass an order of injunction restraining the appellants/defendants not to convert the suit pathway into metal pathway or by changing the private road to public path till disposal of the suit. It has been further submitted that it is astonishing fact that when the final disposal of the suit is still pending at this stage how the ld. Court below came to a conclusion that the suit path is a private path. It has further been submitted that if the impugned order is not stayed the appellants/ defendants would face irreparable loss and injury. So he prays for staying of operation of the impugned order.

Heard ld. Counsel for the appellants. Perused the documents as annexed thereto. Also perused the impugned order dated 06.01.2023.

Having regard to the overall facts and circumstances of the case transpiring from the averments made in the plaint and the documents submitted therewith, I am of the considered view that an ad-interim order of stay for a limited period of time would sub-serve justice at least till appearance of the respondents/plaintiffs. Accordingly, the prayer for ad-interim order of stay stands allowed. The operation of the impugned order dated 06.01.2023 passed by the Civil Judge, Junior Division, Jalpaiguri in Title suit No.226/2015 shall remain stayed till the next date.

Appellants to file in requisite forthwith.

Fix 10.03.2023 for S.R. and A.D.

Dictated & corrected by me,

District Judge-in-charge,
Jalpaiguri

District Judge-in-charge,
Jalpaiguri

