

In The Court of Additional District Judge, 4th Court, Barasat, North 24 Parganas

Present : Sri Saugata Chakraborty, Judge
J.O. Code WB00767

Title. Appeal No. 24/2023

Order No.03 , dated 17.05.2023

Record is put up by petition.

An application for injunction and a stay petition are filed by the appellants. Both the petitions are moved on an urgent basis following serious disturbance of the respondents as reported.

The learned advocate appearing for the appellants has referred to the vulnerabilities in the judgement and decree under challenge arising out of T.S. No. 83/2001.

Reliance has been placed upon decisions of the Hon'ble Court in AIR (37) 1950 Allahabad 43 and AIR (36) 1949 Nagpur, 403.

It is urged that T.S. 83/2001 was filed by the respondents/plaintiffs seeking title on the basis of adverse possession at Dag No. 1042 and 1043 and for temporary injunction during continuation of the suit and for permanent injunction as consequential relief. Full ownership of adverse possession takes into effect with the expiry of 60 years period and the claimant must prove adverse possession for continuity of 60 years. Due to erroneous findings of the learned trial court the appellants suffer severely and an injunction ought to be granted in order to give them the relief.

Issue notice upon the respondents asking them to show cause as to why the prayer for temporary injunction shall not be granted against them within fifteen (15) days from the date of receipt of the notice.

Appellants are directed to put in requisites at once.

Perused the report of the Sheristadar that there is no caveat pending as on 20.04.2023.

The appeal is received by way of transfer from the learned District Judge, North 24 Parganas.

In my view it will be just and proper to pass an order on injunction application after hearing the respondents as some intricate questions of law and fact are involved in this case. In order to unravel the true such hearing of both sides is needed.

The prayer for ad-interim injunction is refused.

The prayer for operation of stay is also refused.

To date 29.05.2023 for appearance and hearing.

Dictated & corrected by me,

ADJ 4th Court

Addl. Dist Judge 4th Court
Barasat, North 24 Parganas.