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**Calcutta High Court  
In The Circuit Bench at Jalpaiguri  
Civil Revisional Jurisdiction**

**CO 35 of 2021**

**Ranubala Biswas and others  
Vs.  
Surobala Biswas and others**

Mr. Kunaljit Bhattacharjee,  
Mr. Abhisek Palit,  
Mr. Haider Ali

...for the petitioners

Mr. Anurag Sharma,  
Mr. Druti Roy

.... for the opposite parties

Learned counsel for the petitioners submits that the impugned order for implementation of an ad interim injunction is not valid in the eye of law in view of the ad interim injunction, the enforcement of which was directed, having merged with the final order passed on the injunction application.

It is further argued that no copy of the petition for police help was served on the petitioners by the plaintiffs/opposite parties.

Learned counsel appearing for the plaintiffs/opposite parties submits that, although an endeavour was made to serve a copy on the advocate appearing for the petitioners in the court below, it was verbally informed by the said learned advocate that he

was no longer appearing in the matter. As such, a copy had been filed in the court records.

Upon a perusal of the order, although there is some ambiguity as to whether the temporary injunction ultimately granted or the ad interim injunction initially passed was directed to be implemented, the second penultimate paragraph of the impugned order clearly indicates that the copy of the ad interim injunction was directed to be forwarded to the Maynaguri Police Station for his information, thereby indicating that apparently the order of implementation was passed in respect of the ad interim order, which had already merged with the temporary injunction order passed while disposing of the injunction application itself.

That apart, in view of the impugned order having been passed in the absence of any effective notice on the opposite parties, the order does not stand the test of judicial scrutiny. However, the error on the part of the court, as indicated above, cannot be a bar for the plaintiffs/opposite parties to file a fresh application for implementation of the temporary injunction order, since the previous application was filed with the same prayer.

Accordingly, CO 35 of 2021 is disposed of by setting aside the impugned order on the ground of *audi alteram partem*, with liberty to the

plaintiffs/opposite parties to file a fresh application for implementation of the temporary injunction order passed by the trial court, upon prior service of copy of the same either on the advocate for the defendants/petitioners or on the defendants/petitioners directly. If such an application is made within a week from date, the trial court shall dispose of the same on its own merits, upon ascertaining whether proper notice had been served on the defendants/petitioners, as expeditiously as possible, preferably within three weeks from the date of filing of the application in the trial court.

There will be no order as to costs.

The trial court shall act on the communication of the learned advocates and/or server copy of this order without insisting upon prior production of a certified copy.

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.)**