

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

**01.12.2021
Crt. No.1.
K.B./b.r.
Item No.15.**

C.O. 89 of 2021

Sri Sona Roy & Ors.

-Vs.-

Sri Puren Roy & Ors.

**Mr. Partho Pratim Roy
Mr. Ajoy Kumar Singhanian
.....for the petitioners.**

Heard Mr. Roy, Learned Counsel
appearing for the petitioners.

The petitioners are the defendants in a
suit for declaration and permanent injunction
with consequential reliefs.

The Learned Trial Court was pleased to
allow the application of the plaintiffs for ad
interim injunction upon *prima facie* satisfaction
of the documents produced by the plaintiffs in
support of their possessory title over the suit
premises.

Such finding was upheld in the Misc.
Appeal No.27 of 2020 as decided on the 24th of
March, 2021.

Aggrieved by the judgement and order in the Misc. Appeal dated 24th March, 2021 the defendants, who are the appellants in the Misc. Appeal, have preferred this application under Article 227 of the Constitution of India.

Heard.

Considered.

Upon a close consideration of the reasons relied upon by the Learned Trial Court and the 1st Appellate Court protecting the possessory title of the plaintiff over the suit property by granting and affirming the ad interim injunction, this Court is of the view that the principles of balance of convenience were correctly applied by both the Courts.

Both the Court went by the evidence brought on record and have used their discretion wisely.

Accordingly, the order impugned dated 24th March, 2021 requires no interference.

Parties shall be at liberty to contest the injunction application on merits before the Learned Trial Court.

The Learned Trial Court is requested to dispose of the injunction application expeditiously and preferably not later than five

months from the date of communication of this order.

Needless to add, the observations made in this order are germane for deciding the merits of this appeal only and, the Learned Trial Court shall be free to decide the injunction application on its own merits.

CO 89 of 2021 stands accordingly **disposed of.**

All concerned parties shall act in terms of the copy of the order downloaded from the official website of this Court.

Urgent Xerox certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Subrata Talukdar, J.)