

*In The High Court At Calcutta
Civil Revisional Jurisdiction*

C.O. No. 460 of 2024

**Sri Rishov Mukherjee
Vs.
Sri Abani Bhusan Mukherjee & Ors.**

Mr. Partha Pratim Roy,
Mr. Dyutiman Banerjee,
Ms. Poulami Chakraborty ... For the petitioner.

Mr. Joy Chakraborty,
Mr. Ranjit Malakar ... For the opposite parties.

The petitioner was born in the wedlock of the opposite party no. 2 and the opposite party no. 3 but the marriage between the said opposite parties was dissolved by a decree of divorce and thereafter the opposite party no. 2 married the opposite party no. 1, the said marriage was also dissolved by a decree of divorce.

The opposite party no. 1 has filed the connected suit being Title Suit No. 1774 of 2023 inter alia for a decree of declaration that the petitioner has no manner of right to claim as adopted son of the opposite party no. 1, the said suit is pending before the 4th Court of learned Civil Judge, (Junior Division) at Alipore, District – 24 Parganas (South).

The opposite party no. 1 in the said suit has filed an application for injunction praying for an order of injunction restraining the petitioner from claiming himself as his son.

The learned Trial Judge by the Order No. 01 dated October 18, 2023 had refused the prayer of the opposite party no. 1 for an *ad interim* order of injunction on the said application.

The opposite party no. 1 aggrieved by the said order has preferred the connected Miscellaneous Appeal No. 403 of 2023 before the learned District Judge, at Alipore District – 24 Parganas (South).

The appeal Court below by the order impugned dated November 24, 2023 has passed an *ad interim* order of injunction restraining the defendant no. 1 from canvassing or describing himself as the biological or adopted son of the plaintiff and also restrained him from using the surname of the plaintiff to canvass himself as adopted or biological son of the plaintiff till December 21, 2023.

This Court is informed that the said *ad interim* order was subsequently extended time to time and is still subsisting.

The application for injunction is pending disposal before the learned Trial judge at this stage interference with an *ad interim* order of injunction passed on the said application on merit may cause prejudice to the parties. On the contrary justice would be sub-served if the said pending application for injunction is disposed of on its merit in accordance with law keeping the subsisting *ad interim* order of injunction in force till the disposal of the said application.

Accordingly, the learned Trial Judge is requested to dispose of the said application for injunction expeditiously in accordance with law and till such time the *ad interim* order of injunction passed by the appeal Court below in the connected miscellaneous appeal shall be in force.

It is however made clear that the learned Trial Judge shall not be influenced by the fact that this Court had retained the said *ad interim* order of injunction or by any observations made by the appeal Court below.

In view of this order, no fruitful purpose would be served by keeping the connected miscellaneous appeal pending as such the Miscellaneous Appeal No. 403 of 2023 be treated as disposed of.

C.O. 460 of 2024 is disposed of with the above terms without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)