

D/L- 11
10/03/2025
Ct. No.-6
Aritra

C.O. 805 of 2025

**Md. Sabir Ali Mondal
Versus
Prabir Kumar Saha & Ors.**

Mr. Rafiqul Islam
Mr. Manika Sarkar
...for the petitioner

Mr. Debjit Mukherjee
Mr. Kaustav Bhattacharya
Ms. Atreya Chakraborty
Ms. Priyanka Jana
....for the opposite party

Affidavit of service filed today in Court is taken on record.

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order being No.16 dated January 22, 2025 passed by the learned Civil Judge (Jr. Div.), 1st Court, Barasat in Title Suit No.134 of 2024.

By the order impugned the application under Section 151 of the Code of Civil Procedure filed by the petitioner herein praying for implementation of the ad interim order of injunction dated February 8, 2024 stood rejected.

The learned advocate appearing for the petitioner submits that the opposite parties herein are creating disturbance in the peaceful possession of the property by way of raising construction on such property.

Mr. Mukherjee, learned advocate appearing for the opposite parties vehemently denies that the petitioner is in possession of the property in question. He submits that the opposite parties herein was all along in possession of the suit property and have raised construction thereupon. He further submits that the injunction application is otherwise ready for hearing and March 13, 2025 has been fixed for hearing of the injunction application.

After going through the ad interim order of injunction dated February 8, 2024 this Court finds that the learned Trial Judge while passing an ad interim order of injunction did not arrive at any specific finding that the petitioner was in possession in respect of the property in question at on the date of passing of such ad interim order of injunction.

The learned Trial Judge specifically recorded that the petitioner herein was not able to substantiate as to how his possession was being disturbed by the opposite parties. It is well-settled that an ad interim order of injunction which does not decide the status of the property and also as to who is in possession cannot be implemented through police help.

In view thereof, this Court is not inclined to interfere with the order impugned. However, since the injunction application is otherwise ready for hearing CO 805 of 2025 is disposed of by requesting the learned (Jr. Div.), 1st Court, Barasat to take up the hearing of the

injunction application on the next date fixed i.e. on March 13, 2025 and to dispose of the same as expeditiously as possible and preferably by the end of April, 2025 without granting any unnecessary adjournments to either of the parties.

There will be no order as to costs.

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

(Hiranmay Bhattacharyya, J.)