

Sl 26
10.03.2025
Court No.6
BP

C.O. 842 of 2025

Sibendra Nath Sil & Ors.
-versus-
Tarun Kumar Mukherjee & Ors.

Mr. Tanmoy Mukherjee
Mr. Jit Roy
... for the petitioners

This application under Article 227 of the Constitution of India is at the instance of defendant nos. 2, 3 and 4 praying for a direction upon the learned Civil Judge (Junior Division) 3rd Court at Howrah to dispose of the application under Order 39 Rule 4 of the Code of Civil Procedure expeditiously.

Mr. Mukherjee, learned advocate appearing for the petitioners submits that on January 28, 2025 an ad interim order of injunction was passed restraining the petitioners and their men and agents from changing the nature and character of "A" Schedule property in any manner till February 24, 2025. He further submits that on February 5, 2025 the petitioners filed an application under Order 39 Rule 4 of the Code of Civil Procedure. He further submits that the learned trial judge has mechanically extended the ad interim order of injunction without taking up the hearing of the application under Order 39 Rule 4 of the Code of Civil Procedure.

In view of the order sought and proposed to be passed, there is no necessity to issue notice upon the opposite parties. However, the learned advocate appearing for the petitioners shall be obliged to forward a copy of this application along with this order upon the opposite parties or upon the learned advocates representing them before the learned trial judge.

From the order-sheet appended to the revisional application this Court finds that 2nd June, 2025 has been fixed for hearing of the application under Order 39 Rule 4 of the Code of Civil Procedure.

On a query of the Court Mr. Mukherjee, learned advocate appearing for the petitioners submits that the petitioners herein shall not file any written objection to the application under Order 39 Rules 1 and 2 of the Code of Civil Procedure as all the points of objection against the said application has been taken in the application under Order 39 Rule 4 of the Code of Civil Procedure.

It will be open to the opposite parties herein to file any objection to the application under Order 39 Rule 4 of the Code of Civil Procedure within the time limit as may be specified by the learned trial judge.

This Court is of the considered view that the ends of justice would be subserved if the application under Order 39 Rule 1 and 2 as well as Order 39 Rule 4 are heard together and are disposed of expeditiously.

As prayed for by Mr. Mukherjee, leave is granted to the petitioners to approach the learned trial judge for preponing the date of hearing of the application under Order 39 Rules 1 and 2 and Order 39 Rule 4 of the Code of Civil Procedure and if such approach is made, the learned trial judge shall consider the same and prepone the date of hearing subject to the convenience of the learned trial judge.

Accordingly, C.O. 842 of 2025 stands disposed of.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)