

Sl.17
12.03.2025
Court No.6
BP

C.O. 882 of 2025

Sima Saha
-versus-
The Howrah Municipal Corporation & Ors.

Mr. Somnath Roy Chowdhury
Ms. Arpita Chowdhury
... for the petitioner

Mr. Sandipan Banerjee
Mr. Ankit Sureka
..for Howrah Municipal Corporation

This application under Article 227 of the Constitution of India is at the instance of the plaintiff praying for a direction upon the learned Civil Judge (Junior Division), 6th Court at Howrah to dispose of the application under Order 39 Rule 1 and 2 filed in Title Suit No. 472 of 2022 expeditiously.

The learned trial judge by an order dated 4th April, 2022 refused to pass any ad interim order of injunction. Thereafter, the petitioner filed an application under Section 94 (c) of the Code of Civil Procedure praying for injunction. Such prayer of injunction was refused by an order dated 21st December, 2022. Being aggrieved against such order the petitioner preferred a Miscellaneous Appeal being no. 220 of 2022 and the learned Additional District Judge, Fast Track Court-II, Howrah by a judgement and order dated January 31,

2025 requested the learned trial judge to dispose of the application for temporary injunction within two months from the date of communication of the said order.

The grievance of the petitioner is that in spite of such direction being passed by the learned judge of the 1st Appellate Court, the learned trial judge had not fixed any date for hearing of the injunction application.

Mr. Banerjee, learned advocate appears for the Howrah Municipal Corporation. He submits that such a suit is not maintainable against an order of demolition passed by the Howrah Municipal Corporation.

The petitioner is directed to serve a copy of this application upon Mr. Banerjee, learned advocate appearing for the Howrah Municipal Corporation in course of this day.

Considering the fact that the petitioner is praying for a direction upon the learned trial judge to dispose of the application for temporary injunction, C.O. 882 of 2025 is disposed of by requesting the learned Civil Judge (Junior Division), 6th Court at Howrah to fix a date of hearing of the application for temporary injunction and to dispose of the same in terms of the direction passed in Misc. Appeal No. 220 of 2022.

It will be open to the Howrah Municipal Corporation to raise all points including the point of

maintainability of the suit and if such an objection is raised the learned trial Judge shall consider the issue of maintainability prior to deciding the application for temporary injunction.

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.)