

Sl. 8
24.03.2025
Court No.6
BP

C.O. 900 of 2025

Barjahan Sheikh
-versus-
Lakshindar Halder

Mr. Sandip Das
.... for the petitioner

Mr. Dyutiman Banerjee
..for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order being no. 27 dated February 5, 2025 passed by the learned Additional District Judge, Diamond Harbour in Misc. Appeal No. 41 of 2023.

The opposite party herein filed a suit for declaration of title and for permanent injunction. In such a suit the opposite parties herein filed an application under Order 39 Rules 1 and 2 of the Code of Civil Procedure and the learned trial judge by an order being no.2 dated November 29, 2023 refused to pass an ad interim order of injunction. Being aggrieved against such order the opposite parties herein preferred an appeal being Misc. Appeal No. 41 of 2023 and the learned Additional District Judge, Diamond Harbour, by the order impugned, passed an order restraining the petitioner herein from disturbing the possession of the opposite party and from changing the nature and character of the suit property.

After some arguments Mr. Das, learned advocate appearing for the petitioner submits that the written

objection to the injunction application has already been filed.

Learned advocate appearing for the opposite party submits that in the civil revisional application it has been alleged that the copy of the plaint as well as the injunction application has not been served.

However, without entering into the said dispute since the written objection to the injunction application has been filed it cannot be said that the petitioner herein was not served with the copy of the plaint and the injunction application. Since the injunction application is otherwise ready for hearing, C.O. 900 of 2025 is disposed of by requesting the learned Civil Judge, (Junior Division, 3rd Court, Diamond Harbour to take up the hearing of the injunction application and to dispose of the same as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

It is, however, made clear that while deciding the application for temporary injunction the learned trial judge shall not be swayed by the observation made by the learned 1st appellate court while disposing of the Misc. Appeal No. 41 of 2023.

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.)