

D/L - 14
20/03/2025
Court. No. 6
S.Kundu

C.O. 979 of 2025

Bharatmata Democratic Association & Anr.

Vs.

Sri Sanjoy Halder & Anr.

Mr. Asit Baran Raut,
Mr. Tapan Kumar Jana

...for the petitioners.

Mr. Saumyen Datta,
Mr. Rajendra Nath Barik

...for the opposite parties.

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against Order no. 8 dated 15th January, 2025 passed by the learned Additional District Judge, Fast Track Court – I, Alipore in Miscellaneous Appeal No. 367 of 2024.

The petitioners herein filed a suit for declaration that they have acquired right, title and interest of the suit property by way of adverse possession. The petitioners have also prayed for a decree for permanent injunction restraining the opposite parties herein and their men and agents from causing disturbance in the peaceful possession and occupation of the petitioners in respect of the suit property. The petitioners claim to be a society registered under the West Bengal Societies Registration Act and the certificate of registration was issued on December 17, 2013.

In such a suit, the petitioners filed an application under Order 39 Rule 1 and 2 praying for an ad interim order of injunction restraining the defendant/opposite parties and their men and agents from erecting high boundary walls encircling the suit property. The learned Trial Judge by an order being no. 5 dated 24th September, 2024 rejected the application under Order 39 Rule 1 and 2.

Being aggrieved against such order, the petitioners preferred a miscellaneous appeal being no. 367 of 2024. In connection with the said appeal, the petitioners filed an application praying for temporary injunction restraining the opposite parties herein from creating any disturbance in the erection work of the boundary wall.

The learned Judge of the First Appellate Court rejected the temporary injunction by the order impugned and fixed the date of hearing of the miscellaneous appeal.

Mr. Raut, learned advocate appearing for the petitioners submits that the petitioner is in possession of the suit property from the year 2007 and is conducting the Durga Puja as well as the other festivals and conducting various cultural programmes on the suit property. He further submits that unless an order of injunction is passed, the petitioners will be forcibly

evicted from the suit property by the opposite parties herein.

Heard the learned advocate for the opposite parties on such submissions.

After going through the material placed, this Court finds that the opposite parties herein have purchased the suit property by virtue of deed of conveyance dated December 22, 2020. Thereafter, the property was mutated in the name of the opposite parties and their names have been recorded in the LR Records of Right. The learned First Appellate Court after going through the materials on record specifically observed that the petitioners herein have failed to substantiate their claim that they are in possession of the suit property on and from 2007 by producing material evidence. The learned Judge of the First Appellate Court was right in placing reliance upon the recording in the LR records of right while holding that the opposite parties are in possession of the suit property.

In view thereof, this Court is not inclined to interfere with the order impugned passed by the learned First Appellate Court in Misc. Appeal No. 367 of 2024.

Since the miscellaneous appeal is pending, C.O. 979 of 2025 is disposed of by requesting the learned Additional District Judge, Fast Track Court – I, Alipore in Miscellaneous Appeal No. 367 of 2024 as

expeditiously as possible but preferably by the end of June, 2025 without granting unnecessary adjournments either of the parties.

With the above observations and directions, C.O. 979 of 2025 stands disposed of.

(Hiranmay Bhattacharyya, J.)