

D/L- 114
28/04/2025
Ct. No.-6
Aritra

C.O. 1112 of 2025

**M/s. Tirupati Constriction & Anr.
Vs.
Shri Prasanta Kumar Mondal & Ors.**

Mr. Satyam Mukherjee
Ms. Sayani Ahmed
Mr. Purnendu Shankar Ghosh
Mr. Saibal Rakshit
....for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendant Nos.5 and 7 praying for a direction upon the learned Civil Judge (Sr. Div.), 1st Court, Barasat to dispose of the applications one under Order 39 Rule 1 and 2 of the Code of Civil Procedure and the other under Order 39 Rule 4 of the Code of Civil Procedure filed in Title Suit No.480 of 2024 expeditiously.

The learned advocate appearing for the petitioner draws the attention of the Court to an earlier order dated September 19, 2024 passed by a co-ordinate Bench in C.O.2580 of 2024 whereby the learned trial judge was requested to make all endeavors to dispose of the applications as expeditiously as possible in accordance with law if those are otherwise ready for such disposal, treating the application of the petitioners under Order 39 Rule 4 of the Code as an objection to the application for injunction.

The learned advocate appearing for the petitioner submits that in spite of the said direction the applications are still pending. The learned advocate for the petitioner, in his usual fairness, however submits that the Presiding Officer has already retired and the Court is still lying vacant, but the learned Civil Judge (Sr. Div.), 2nd Court is in charge of the 1st Court. He, however, submits that an order of transfer has already been passed and the Presiding Officer is expected to join very soon.

In the light of the aforesaid submissions made by the learned advocate for the petitioner CO 1112 of 2025 is disposed of by requesting the learned Civil Judge (Sr. Div.), 1st Court, Barasat to dispose of the applications filed under Order 39 Rule 1 and 2 and Order 39 Rule 4 of the Code of Civil Procedure, keeping in mind the directions passed by the co-ordinate Bench on September 19, 2024 in C.O.2580 of 2024.

In the event the Presiding Officer does not join prior to the next date of hearing it will be open to the petitioner to approach the charge Court for taking up the hearing of the said applications and if such an approach is made the learned charge Court shall consider the prayer and act in accordance with law.

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.)