

Sl.19
30.04.2025
Court No.6
BP

C.O. 1393 of 2025

Bela Rani Kheria & Anr.
-versus-
Urmila Kheria & Ors.

Mr. Arnab Chakraborty
Ms. Pragya Bhowmick
Ms. Esha Kar
..for the petitioners

This application under Article 227 of the Constitution of India is at the instance of the defendants and is directed against an order no. 21 dated January 21, 2025 passed by the learned Civil Judge (Senior Division), 2nd Court, Barasat in Title Suit No. 757 of 2019.

By the order impugned the ad interim order of injunction which expired long back was reimposed on an application filed under Section 151 of the Code of Civil Procedure.

Mr. Chakraborty, learned advocate appearing for the petitioners submits that this application under Article 227 of the Constitution of India is maintainable since the order of injunction was reimposed on an application filed under Section 151 of the Code of Civil Procedure.

It is well settled that caption of an application is immaterial and the Court has to look into the substance of such application.

After going through the application under Section 151 of the Code of Civil Procedure this Court is of the considered view that the opposite parties herein in effect prayed for revival of an order of injunction. In other words the opposite parties prayed for an order of injunction after its expiry.

After going through the impugned order this Court finds that the order of injunction was passed by the learned trial judge though on an application under Section 151 of the Code but in effect in exercise of the powers under Order 39 Rule 1 and 2 of the Code of Civil Procedure. Such an order is an appealable one under the provisions of Order 43 Rule 1(r) of the Code of Civil Procedure.

For such reason, this Court is not inclined to entertain this application under Article 227 of the Constitution of India.

The petitioners are at liberty to approach the appropriate forum in accordance with law on the self same cause of action.

The learned advocate on record of the petitioners are permitted to take back the certified copy of the order impugned by replacing the same with a photostat copy thereof.

With the above observations and direction, C.O. 1393 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.)