

07.01.2025  
Item No.2  
Saswata

**C.O. 1278 of 2024**  
**Uttam Ghosh & ors.**  
**versus**  
**Gopal Sengupta**

Mr. Amal Kumar Banerjee

...For the petitioners

1. Praying, in effect, for expeditious disposal of the Miscellaneous Appeal being Misc. appeal no. 45 of 2023 arising out of an order dated 27<sup>th</sup> July 2023 passed in Title Suit no. 482 of 2023, the instant revisional application has been filed. Considering the nature of relief sought for, the present revisional application has been taken up for consideration without prior service of notice on the opposite party.
2. The petitioners are defendants in the above suit. Record would reveal that the Learned Civil Judge (Senior Division), 2<sup>nd</sup> Court, Assansol by order dated 27<sup>th</sup> July 2023, has rejected the petition filed by the plaintiff under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908. Being aggrieved, a Miscellaneous appeal being Misc. appeal no. 45 of 2023 was filed. By order dated 20<sup>th</sup> September 2023 the Learned Judge was, inter alia, pleased to pass an order of ad interim injunction, thereby directing the plaintiff as also the defendants to maintain status quo in respect of possession of the suit property and not to change the nature and character of the suit property in any manner.
3. Although, the aforesaid interim order was passed for a limited period, the same has been extended from time to time. The petitioners would contend that the Miscellaneous appeal has also been kept pending and unless appropriate direction is issued, to have such Miscellaneous appeal disposed of, the petitioners shall

suffer irreparable loss, injury and prejudice. Since, from the order sheet which forms part of the record it would transpire that the Learned Court was lying vacant, by order dated 2<sup>nd</sup> January 2025 this Court had directed the Learned advocate appearing for the petitioners to ascertain whether the Learned Civil Judge (Senior Division), 2<sup>nd</sup> Court, Assansol was still lying vacant and / or the next date fixed for hearing of the Miscellaneous appeal.

4. Mr. Banerjee, learned advocate appearing for the petitioners by placing before this Court an information sheet would submit that at present the Learned Court of the Civil Judge (Senior Division), 2<sup>nd</sup> Court, Assansol is functional and a new incumbent has taken charge and as such, there would be no difficulty for the Learned Judge to expeditiously dispose of the pending Miscellaneous appeal.
5. Having heard the learned advocate appearing for the petitioners and considering the fact that the Miscellaneous appeal is pending since September 2023, I am of the view that the Learned Civil Judge (Senior Division), 2<sup>nd</sup> Court, Assansol should take steps to expeditiously dispose of the Miscellaneous appeal being Misc. Appeal no. 45 of 2023.
6. It is expected that the aforesaid appeal should be disposed of as expeditiously as possible preferably within a period of 6 months from the date of communication of this order.
7. With the above direction and observation, the civil revisional application being C.O. no. 1278 of 2024 is accordingly disposed of.
8. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

**(Raja Basu Chowdhury, J.)**