

01-05-2025
Item no.19
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction

CO No.1520 of 2025
Genius Kids School & Anr.
-vs-
Sri Kunal Banerjee

Ms. Reshmi Ghosh
Ms. Upasana Banerjee ...for the petitioners

This application under Article 227 of the Constitution of India is at the instance of the plaintiffs praying for an order of injunction restraining the opposite party from dispossessing the petitioners from their school premises and for a direction upon the learned District Judge at Alipore to dispose of Miscellaneous Appeal No.242 of 2024 expeditiously, preferably on day-to-day hearing basis within a specified time period.

The petitioners filed a suit for declaration that they are licensees in respect of the suit property and for a further declaration that the opposite parties have no manner of right to dispossess the petitioners from the said property without due process of law and for permanent injunction restraining the opposite party and his men and agents from disturbing and/or dispossessing the petitioners from premises no.P-241, Lake Road under Rabindra Sarobar police station without due process of law.

After filing the said suit, the petitioners filed an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 praying for an order of temporary injunction restraining the opposite party from disturbing and/or dispossessing the petitioners from the suit

property.

After filing the said suit the petitioners moved an application for temporary injunction and prayed for an ad interim relief.

Learned trial judge by an order dated July 3, 2024 rejected the prayer for ad interim injunction. Being aggrieved, the petitioners preferred a miscellaneous appeal being Misc. Appeal No.242 of 2024.

Learned judge of the first appellate court by an order being Order no.2 dated July 10, 2024, after considering the urgency of the petitioners' case, fixed July 16, 2024 for hearing of the application dated July 9, 2024 for injunction but refused to pass any ad interim order of injunction.

Learned advocate for the petitioners submits that the written objection to the injunction application in the miscellaneous appeal has already been filed by the opposite party herein.

The petitioners have filed this revisional application only on April 25, 2025 long after the prayer for ad interim injunction was refused by the first appellate court on July 10, 2025. For such reasons, this court is not inclined to pass any ad interim order of injunction at this stage.

Since the petitioners herein have also prayed for a direction upon the learned first appellate court to dispose of the miscellaneous appeal, this court is of the considered view that the interest of justice would be sub-served, if a direction is passed upon the learned judge of the first appellate court to dispose of the miscellaneous appeal expeditiously.

Learned advocate for the petitioners submits that July 1, 2025 has been fixed for hearing of the injunction application filed in the miscellaneous appeal.

In the light of the aforesaid submission made by the learned counsel for the petitioners, CO No.1520 of 2025 stands disposed of by requesting the learned District Judge or the learned District Judge in-charge to take up the hearing of the injunction application on the next date fixed, if the same is ready for hearing.

Learned counsel for the petitioners prays for liberty to approach the learned first appellate court for preponing the date of hearing of the application. Such prayer is allowed.

The petitioners will be at liberty to file an appropriate application for preponing the date of hearing. If such an application is filed, the learned District Judge or the learned District Judge in-charge is requested to consider such prayer and pass necessary orders accordingly.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

Certified copy of this order, if applied for, shall be made available to the parties.

[Hiranmay Bhattacharyya, J]

