

22-05-2025
Item no.54
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction

CO No.1631 of 2025
M/s. Success Construction Company
-vs-
Shri Parimal Paral & Anr.

Mr. Sharanya Chatterjee
Mr. Subhajit Barman ...for the petitioner

Mr. Prasenjit Mukherjee
Mr. Tapas Kumar Dinda
Mr. Abhijit Chandra Majumder
Mr. Raja Roy ...for opposite party no.2

This application under Article 227 of the Constitution is at the instance of the plaintiff and is directed against an order dated April 10, 2025 passed by the learned District Judge at Alipore in Misc. Appeal No.68 of 2025.

By the order impugned, an order of injunction passed by the learned trial judge was stayed.

Mr Chatterjee, learned counsel for the petitioner, submits that in an appeal arising out of an order of injunction, the order of stay of operation of such order could not have been passed keeping the appeal pending. In support of his contention, Mr Chatterjee places reliance upon the decisions of this court in the case of Gautam Kumar Hada reported at (1994) ILR 1 CAL 72 and in the case of Mobassor Hossain v. Manik Chandra Pal reported at 2005 4 CHN 499. There is no quarrel to the proposition of law laid down in Gautam Kumar Hada (supra) and Mobassor Hossain (supra).

Mr Chatterjee submits that an order of injunction

should be passed restraining the opposite parties from carrying on construction.

After going through the materials, this court finds that by an order dated November 13, 2024, the learned trial judge passed an order restraining the defendants from dispossessing the plaintiff from the suit property for a limited period.

Mr Chatterjee submits that such order was extended from time to time. However in the application under Article 227, the petitioner has prayed for an interim order restraining the opposite parties from carrying on construction. Thus, there is a dispute as to whether the petitioner is in possession of the suit property.

For such reasons, this court refrains from passing any interim order at this stage. It has been uniformly submitted by the parties that the miscellaneous appeal is otherwise ready for hearing and that the next date fixed is June 25, 2025.

This court is, therefore, of the considered view that interest of justice would be subserved if the learned District Judge in-charge or the transferee court is requested to make an endeavour to dispose of the miscellaneous appeal being Misc. Appeal No.68 of 2025 as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

CO No.1631 of 2025 is thus disposed of.

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,]

