

CO 1716 of 2025**Smt. Ava Dey & Anr.****vs.****Sanatan Naiya & Anr.**

Mr. Vivek Basu
Ms. Ipsita Ghosh
Mr. Bhaskar Sengupta

....for the Petitioners

By the order impugned the application filed by the petitioners herein for vacating the interim order of injunction on the ground that the provisions of Order 39 Rule 3(a) and (b) of the Code of Civil Procedure was not complied with stood rejected. By the said order the order for local inspection was allowed and a Commissioner was appointed.

The learned advocate for the petitioner submits that the petitioner is not aggrieved by the portion of the order allowing the application for local inspection.

Record reveals that an order of interim injunction was passed by the learned District Judge, Hooghly on 4th January, 2025 and the following day was Sunday and the compliance was made by the appellant in the miscellaneous appeal on 6th January, 2025. In proof thereof an affidavit was also filed on the same day.

The learned Judge of the First Appellate Court recorded that the appellant in the miscellaneous appeal has complied with the mandatory requirement of provisions of Order 39 Rule 3(a) and (b) of the Code.

This Court is of the considered view that the learned Judge of the First Appellate Court was right in rejecting the application for vacating the order of

injunction on the alleged ground of non-compliance of provisions of Order 39 Rule 3(a) and (b).

Accordingly, CO 1716 of 2023 stands disposed of.

There shall be however no order as to costs.

Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(Hiranmay Bhattacharyya, J.)