

Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Uday Kumar

F.M.A.T 194 of 2025
IA No: CAN 1 of 2025

Sri Rohit Kumar Patra and another
Vs.
Sri Pradip Bakshi and another

For the appellant : Mr. Partha Pratim Roy
Mr. Sarbananda Sannyal
Mr. Samrat Dey Paul

For the respondent nos.1 & 2 : Mr. Amritam Mondal
Mr. S. Kr. Seal
Mr. Nayan Chowni

Heard on : 22.05.2025 & 17.06.2025

Judgment on : 17.06.2025

Sabyasachi Bhattacharyya, J.:-

1. On consent of parties, both the appeal and the application are taken up for hearing together.

2. Learned counsel for the respondents submits that due to the dilatory tactics of the appellants, the injunction application pending in the trial court is being protracted.
3. Learned counsel submits that in order to protract the proceedings, the appellants have taken out an application under Order I Rule 10 of the Code of Civil Procedure for addition of parties and also an application for amendment of the plaint under Order VI Rule 17 of the Code of Civil Procedure.
4. Due to the pendency of those, the injunction application cannot be disposed of, despite the directions passed by a coordinate Bench on January 16, 2025 in FMA 852 of 2024 at the *ad interim* stage.
5. Learned counsel appearing for the appellants submits that unless the applications for addition of party and amendment of plaint are taken up for hearing first, there will be an unnecessary multiplicity of proceedings, since, in the event those applications are allowed and the proposed added parties are impleaded, injunction will have to be sought afresh against them.
6. It is further submitted that on several occasions, the respondents themselves have also asked for adjournments.

7. We also find upon hearing learned counsel that the respondents have not yet filed written objection either to the addition of party application or to the amendment application.
8. At this stage, learned counsel appearing for the respondents, on instruction, submits that the respondents do not have any objection to the application under Order I Rule 10 of the Code of Civil Procedure being allowed in the trial court.
9. As such, they do not intend to use any objection thereto.
10. However, the respondents assure this court that they shall file written objection to the amendment application in the trial court within a week from date.
11. Keeping in view such fair submission on behalf of the respondents, and considering the scope of the pending applications in the trial court, we are of the view that unless the amendment application is taken up for disposal earlier than the injunction application, there may be unnecessary multiplicity of proceedings, since amendments consequential to the addition of party might be required to be introduced in the pleadings in the event the former application is allowed, in which event the injunction will have to be extended to the added parties as well.
12. Even otherwise, we find that a strong *prima facie* case has been made out for grant of injunction, particularly since *ad interim*

injunction was granted by different Benches of this court at different points of time.

- 13.** Accordingly, FMAT 194 of 2025 along with CAN 1 of 2025 are allowed, thereby setting aside the impugned order and granting injunction restraining the defendants/respondents and/or their men and agents from further transferring, alienating and/or encumbering the suit property in favour of third parties till disposal of the temporary injunction application pending in the trial court.
- 14.** The respondents shall file their written objection to the amendment application filed by the appellants in the trial court within a week from date.
- 15.** Subject to the filing of such written objection, the learned trial Judge shall dispose of the amendment application within a fortnight thereafter and shall proceed to dispose of the injunction application within a week subsequent to the disposal of the amendment application.
- 16.** Insofar as the application under Order I Rule 10 of the Code of Civil Procedure filed by the plaintiffs/appellants in the suit is concerned, in view of the concession given by the defendants/respondents in this court, the said application stands allowed, thereby directing the parties sought to be added

by way of the said application to be impleaded as party defendants in the suit.

- 17.** The appellants shall file an amended plaint, incorporating the names of the added parties, within a week from date.
- 18.** It is made clear that the above observations shall not affect the merits of the amendment application and/or the injunction application pending in the trial court and the learned trial Judge shall be at liberty to independently decide both the said applications on their own merits upon giving opportunity of hearing to the parties, however, adhering to the timelines as stipulated herein.
- 19.** There will be no order as to costs.
- 20.** Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)