

10.06.2025

Mithun

List –D/L

Sl. No. 17.

Ct. No. 06.

CO 1886 of 2025

Prasanta Paul

-Vs.-

Indrani Paul Dey

Mr. Bratin Kumar Dey,
Mr. Joydeep Das

...for the petitioner

The application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against the judgment and order dated 9th of April, 2025 passed by the learned Additional District Judge, Fast Track Court No.2 at Barasat in Misc. Appeal No.26 of 2022 thereby affirming the order dated 16th of September, 2021 passed by the learned Civil Judge (Senior Division), 3rd Court at Barasat in Title Suit No.647 of 2021.

The opposite party herein is the wife of the petitioner. The petitioner claims to be the owner of A-Schedule property which is a self-contained flat. The opposite party in the plaint has claimed that she has been residing in the said flat since her marriage along with the minor son and daughter. The opposite party filed a suit for declaration that she has every right to reside, use and access the A-Schedule property as her matrimonial home and shared household and for permanent injunction. In such a suit on an application

under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure being filed, the learned Trial Judge by an order dated 16th of September, 2021 passed an ad interim order of injunction restraining the petitioner from dispossessing the opposing party and the minor children from the suit premises without due process of law and the petitioner was also restrained from creating third party interest in respect of the suit premises for a limited period. Being aggrieved by such ad interim order of injunction, the petitioner preferred a miscellaneous appeal being No.26 of 2022. The Additional District Judge, Fast Track second Court at Barasat by the judgment and order impugned dated 9th of April, 2025 dismissed the miscellaneous appeal thereby affirming the ad interim order of injunction.

This Court finds that the ad interim order of injunction which was initially passed by the learned Trial Judge on 16th of September, 2021 has been affirmed by the learned Judge of the First Appellate Court by the impugned order and in view thereof no useful purpose will be served by keeping the Civil Revisional application pending.

This Court is of the considered view that the interest of justice will be sub-served if the learned Trial Judge is directed to dispose of the temporary injunction application within a specified time frame.

Mr. De, learned Advocate appearing for the petitioner submits that the written objection to the temporary injunction application has already been filed and today is the date fixed for hearing of such application.

In the light of the aforesaid submission made by the learned Advocate for the petitioner, C.O.1886 of 2025 is disposed of by requesting the learned Civil Judge(Senior Division), 3rd Court at Barasat to dispose of the application for temporary injunction as expeditiously as possible but preferably within a period of 8 weeks from the next date fixed without granting any unnecessary adjournment to either of the parties and without being influenced by the observation made by the learned Trial Judge as well as the learned Judge of the First Appellate Court while deciding an appeal against an ad interim order of injunction.

With the above observation, C.O.1886 of 2025 stands disposed of.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)