

D/L- 21
26/06/2025
Ct. No.-6
Aritra

C.O. 2110 of 2025

**Md. Ohab Ali Molla @ Ohabali Molya
Vs.
Sharjan Bibi**

Mr. Anirban Mitra
Mr. Amit Halder
Mr. Amit Roy
Ms. Madhumita Sadhukhan
...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order dated August 22, 2024 passed by the learned Additional District Judge, Basirhat, District-North 24-Parganas in Miscellaneous Appeal No.3 of 2023.

The petitioner filed a suit for injunction restraining the opposite party from creating any disturbance in the peaceful possession of the petitioner as well as dispossessing the petitioner from the suit property.

The learned advocate appearing for the petitioner submits that the petitioner had submitted all the relevant documents in order to show that the petitioner is in possession of the suit property.

The learned trial judge by an order dated December 16, 2022 passed an order of *status quo* in respect of nature, character and possession of the suit land.

Being aggrieved by such order, the opposite party preferred Miscellaneous Appeal No.3 of 2023 and the

learned Judge of the Appellate Court allowed the said miscellaneous appeal thereby setting aside the order passed by the learned trial judge.

The learned trial judge observed that since both the plaintiffs and the defendants are claiming to be in possession of the suit land, trial is necessary in order to decide as to who is in possession of the same. However, even after making the aforesaid observation, the learned trial judge proceeded to pass an order of *status quo* with regard to the nature, character and possession of the suit land without indicating as to which party is in possession of the same.

It is well-settled that an order of *status quo* without indicating its status cannot be sustained in the eye of law.

The learned judge of the First Appellate Court took note of the Record of Rights and arrived at a positive finding that the defendant is in possession of the suit plot. The learned judge of the First Appellate Court took note of the rent receipts filed by the opposite party in respect of the suit property and observed that the property has not been partitioned amongst co-sharers in accordance with Section 14 of the West Bengal Land Reforms Act, 1955. No document has been produced by the petitioner to prove that they are in possession of the property.

The learned advocate appearing for the petitioner could not controvert such factual finding of the learned Appellate Court by production of any documentary evidence.

After going through the materials on record, this Court is of the considered view that the learned judge of the First Appellate Court was right in setting aside the undefined order of *status quo* passed by the learned trial judge.

For such reason, this Court is not inclined to interfere with the order impugned.

Accordingly, CO 2110 of 2025 stands dismissed.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)