

15.07.2025
Item no. 14.
Court No.6.
AKG

C. O. 2464 of 2025
Shri Dulal Chandra Mal
Vs.
Smt. Ludgi Tudu & Ors.

Mr. Sourav Sen,
Mr. S. Chakraborty,
Ms. A. Chakraborty

.....for the Petitioner

Mr. Biswajit Mukherjee,
Ms. Ankita Nandi,
Ms. Swastika Saha

...for Opposite Party No. 1

This application under Article 227 of the Constitution of India is directed against the judgment and order dated 17th April, 2025 passed by the learned Additional District Judge, 1st Court at Barrackpore in Misc. Appeal No. 58 of 2024 affirming the order dated 7th May, 2024 passed by the learned Civil Judge (Jr. Division), 1st Court at Barrackpore in Title Suit No. 129 of 2024.

The opposite party no.1 filed a suit for declaration of title and for permanent injunction against the petitioner as well as the other opposite parties. In such a suit, the opposite party no. 1 filed an application under Order 39 Rules 1 and 2 of the Code of Civil Procedure.

The learned trial Judge by the order dated 7th May, 2024 passed ad-interim order of injunction restraining the defendant/petitioner herein from disturbing the peaceful possession of the opposite

party no. 1 in respect of the suit property for a specified time limit.

Being aggrieved by such order, the petitioner preferred a Misc. Appeal being no. 58 of 2024, which was dismissed by the order dated April 17, 2025.

Mr. Sen, learned senior advocate appearing for the petitioner submits that the ad-interim injunction was obtained by suppressing material facts. He submits that in an earlier suit between the parties pertaining to the self-same property initially ad-interim of injunction was granted but the same stood vacated on a contested hearing.

Mr. Sen further submits that suppressing such material facts, the instant suit has been filed and the learned trial Judge passed an order of injunction, which was subsequently affirmed by the learned Judge of the appellate Court.

After some argument, Mr. Sen further submits that the learned trial Judge may be directed to dispose of the application for temporary injunction expeditiously.

Heard learned advocate for the opposite parties on such submission.

The petitioner will be at liberty to file a written objection to the application for temporary injunction within a week from the date of receipt of the server copy of this order after serving copy of the same to the

learned advocate for the plaintiff/opposite party before the learned trial Judge.

The learned trial Judge is requested to dispose of the application for temporary injunction as expeditiously as possible without granting any unnecessary adjournment to either of the parties. The learned Judge of the appellate Court while dismissing the appeal restrained the defendant no. 1 from disturbing the peaceful enjoyment of the suit property till the disposal of the suit. When the appellate Court was hearing a Misc. Appeal arising out of an order allowing the prayer for ad-interim of injunction, the learned Judge of the appellate Court could not have passed the injunction order, which is to remain operative till the disposal of the suit.

It is, however, made clear with the order of injunction passed by the learned Judge of the appellate Court on April 17, 2025 shall remain in operation till the disposal of the application for temporary injunction.

Accordingly, the order impugned passed by the learned Judge of appellate court stands modified only to the extent as indicated above.

With the above observation and direction, **C.O. 2464 of 2025** stands disposed of.

(Hiranmay Bhattacharyya, J.)