

D/L20
17.07.2025
Rohit
ct.no.6

CO 2530 of 2025

**Partha Sarathi Ray & Anr.
Versus
Bhargab Sales Pvt. Ltd. & Ors.**

Mr. Arindam Guha
Mr. S. Sengupta
Ms. Shalini Dey

...for the Petitioners

This application under Article 227 of the Constitution of India is at the instance of the defendant nos. 4 and 5 praying for a direction upon the learned Civil Judge, Junior Division, 1st Court at Alipore for expeditious hearing of an application under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure filed in Title Suit No.1670 of 2021.

The learned advocate appearing for the petitioner submits that in spite of a specific direction passed by a Co-ordinate Bench on 12th of March, 2024 in CO 520 of 2024, the learned Trial Judge has not yet disposed of the application for temporary injunction. He further submits that the plaintiff is not taking any steps to serve upon the defendant no. 2 and for such reasons the defendant nos. 4 and 5 who are the petitioners before this Hon'ble Court are suffering as a result of the order of injunction.

After going through the application under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure this Court finds that the plaintiff/opposite party prayed for temporary injunction restraining the defendant nos. 1 to 3 from disturbing the peaceful possession of the plaintiff in respect of the suit property or its part or portion in any manner whatsoever till the disposal of the aforesaid suit.

The learned Trial Judge passed an ad interim order of injunction on December 24, 2021 thereby directing the plaintiff and the defendant nos. 1 to 3 to maintain status quo in respect of possession of the property as it stood as on the date of passing of the said order till January 21, 2022.

The learned Advocate appearing for the petitioner submits that the ad interim order of injunction is being extended from time to time. He further submits that the written objection to such application has already been filed by the defendant nos. 4 and 5 but in spite of the same the learned Trial Judge is extending the ad interim order of injunction and have not made any endeavour to dispose of the application for injunction in terms of the direction passed by a Co-ordinate Bench in CO 520 of 2024.

After going through the order-sheets appended to this application this Court finds that the

service returns upon the defendant no. 2 has not yet reached. It does not appear from the order-sheet that the injunction application has been duly served upon the defendant no. 2. Since the application for temporary injunction was filed praying for an order of temporary injunction against the defendant nos. 1 to 3 this Court is of the considered view that unless the defendant no. 2 is served the application for temporary injunction cannot be taken up. For such reason this Court is not inclined to pass any direction for expeditious hearing of the injunction application at the instance of the defendant nos. 4 and 5.

With the above observations CO 2530 of 2025 stands disposed of.

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

(Hiranmay Bhattacharyya, J.)