

Court No. 6
(265719)

22.07.2025
(AD 18)
(S. Banerjee)

CO 2585 of 2025

Swapan Kanrar
Vs.
Prabhat Malik & Anr.

Mr. Subhendu Banerjee

... for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against a judgment and order dated May 13, 2025 passed by the learned Additional District Judge, 2nd Court at Howrah in Misc. Appeal No. 49 of 2024.

The petitioner herein filed a suit for declaration that the petitioners have every right to make/construct outlet drain over the suit property and for a further decree for declaration that the defendants have no right to cause any obstruction to the legal right of the plaintiffs in relation to making/constructing connective outlet drain through or over the suit property.

The petitioner herein filed an application under Order 39 Rule 1 and 2 of the Civil Procedure Code praying for an order of temporary injunction restraining the defendant/opposite party herein from

causing any obstruction to the petitioner's in construction of the connecting outlet drain over the suit property. The learned trial judge passed an ad interim order of injunction restraining the defendant/opposite parties herein from causing any obstruction in construction of outlet drain over the suit property.

Being aggrieved, the opposite party herein preferred a Misc. Appeal being No. 49 of 2024 and the learned Judge of the appellate court, by the order impugned, allowed the misc. appeal thereby setting aside the order of injunction passed by the learned trial judge.

After going through the reliefs claimed in the application under Order 39 Rule 1 and 2, this court is of the considered view that the relief sought for, if granted, would amount to decreeing the suit at the interim stage, which is not permissible. The learned judge of the appellate court was right in setting aside the ad interim order of injunction passed by the learned trial judge.

At this stage, the learned advocate appearing for the petitioner prays for a direction upon the learned trial judge to dispose of the application for temporary injunction expeditiously.

Learned Civil Judge (Jr. Division), 5th Court at Howrah is requested to make an endeavour to dispose of the application for temporary injunction as expeditiously as possible after the same is made ready for hearing without granting any unnecessary adjournment to either of the parties.

With the above observation, CO 2585 of 2025 stands disposed of.

(Hiranmay Bhattacharyya, J.)