

29.07.2025
rc/ct.no.06
Item No.30

C.O.No. 2675 of 2025
Sanaulla Mandal & Others
Versus
Sorif Mondal & Others

Mr. Susenjit Banik
Mr. Srikanta Datta
Mr. Mrinal Saha ...for the petitioners

Mr. Partha Pratim Roy
Ms. Paulami Chakraborty
Mr. Samrat Chakraborty ...for the O.P.No.1

This application under Article 227 of the Constitution of India is at the instance of the defendants and is directed against a judgment and order dated May 19, 2025 passed by the learned Additional District Judge, Fast Track Court-II, Lalbagh, Murshidabad in Miscellaneous Appeal No. 08 of 2025 thereby reversing the order no. 2 dated December 16, 2024 passed by the learned Civil Judge (Senior Division), Lalbagh, Murshidabad in Partition Suit NO. 749 of 2024.

Mr. Susenjit Banik, learned advocate appearing for the petitioner submits that through inadvertence the certified copy of the said order was not filed along with civil revision application. The certified copy of the impugned judgment filed in Court today is taken on record. Let the same be tagged along with the record of this Court.

Mr. Susenjit Banik, learned advocate appearing for the petitioner submits that challenging the order refusing to pass an ad interim order of injunction the opposite

parties herein preferred the miscellaneous appeal. He submits that before the learned Judge of the appellant court the petitioners have filed an objection against the application for injunction filed by the opposite parties before the appellate court but the learned judge of the appellate court without considering the objection raised by the petitioners herein allowed the miscellaneous appeal thereby passing an order directing the parties to maintain status quo in respect of the nature, character and possession of the suit property till the disposal of the application for temporary injunction.

Mr. Partha Pratim Roy, learned advocate appearing for the opposite party submits that since the miscellaneous appeal arises out of an order refusing to pass an ad interim order of injunction, there is no scope to consider the written objection filed by the petitioners by the learned judge of the appellate court.

Heard learned advocates for the respective parties and considered the material available on record. The opposite parties herein preferred the miscellaneous appeal against the order refusing to pass an ad interim order of injunction. It is well settled that the scope of such appeal is very limited as only the materials that were available before the learned trial Judge at the time of considering the prayer for ad interim injunction can be considered while deciding such miscellaneous appeal.

This Court is, therefore, of the considered view that the learned Judge of the appellate court cannot be faulted for not considering the objections raised by the petitioner herein to the injunction application filed in the miscellaneous appeal.

At this stage Mr. Susenjit Banik, learned advocate appearing for the petitioner submits that the hearing of the application for temporary injunction may be expedited.

For the reasons as aforesaid this Court is not inclined to interfere with the order impugned. However, this Court is of the view that the interest of justice would be subserved if the learned trial Judge is requested to dispose of the application for temporary injunction expeditiously.

In view of the above, the civil revision application being CO No. 2675 of 2025 is disposed of by requesting the learned Civil Judge (Senior Division), Lalbagh, Murshidabad to take up the hearing of the application for temporary injunction on the next date fixed, if the same is otherwise ready for hearing and to make an endeavour to dispose of the same as expeditiously as possible without granting any unnecessary adjournments to either of the parties. If the written objection to the injunction application has not yet been filed, it will be open to the petitioner herein to file same the same well before the next date fixed for hearing of the application.

With the above observations and directions the instant civil revision application being C.O. No. 2675 of 2025 stands disposed of.

There shall be, however, no order as to costs.

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

(Hiranmay Bhattacharyya,J)