

D/L- 8
11/08/2025
Ct. No.-6
Aritra

C.O. 2790 of 2025

**Mozzammel Hossain Mallik @
Mojammel Mollicik & Anr.
Vs.
Nabab Laskar & Anr.**

Mr. Debasis Mitra
Ms. Priya Chakraborty
Ms. Debashri Bose

...for the petitioners

Mr. Animesh Paul
Ms. Manisha Kr. Upadhyay

....for the opposite parties

This application under Article 227 of the Constitution of India is at the instance of the defendants and is directed against an order dated July 1, 2025 passed by the learned District Judge, Howrah in Miscellaneous Appeal No.217 of 2022.

The learned advocate appearing for the petitioner submits that the learned trial judge refused to pass any ad interim order of injunction in favour of the opposite party but the learned judge of the Appellate Court passed an order of *status quo* with regard to the suit property in spite of the fact that the opposite party failed to produce any document in support of their possession in spite of the suit property. The learned advocate further submits that in the meantime the petitioner has already transferred the suit property in favour of the third party and such third party has independent suit being Title

Suit No.486 of 2023 and has obtained an order of injunction against the opposite parties herein.

Heard the learned advocate for the opposite parties on such submission.

The opposite parties herein filed a suit praying for declaration that they have perfected their title by way of adverse possession since the time of Abdul Majit Laskar against the defendants and for permanent injunction restraining the defendants and their men and agents from disturbing the peaceful possession of the plaintiff/opposite parties in respect of the suit property.

After going through the order passed by the learned judge of the Appellate Court, this Court finds that the opposite parties herein produced the L.R. Record of Rights wherein their name were recorded as predecessor-in-interest of the opposite parties have been recorded as “forcible occupiers” in respect of the suit property.

The learned judge of the Appellate Court also noted that the petitioners herein could not produce any documents in respect of their possession.

In the light of the aforesaid findings the learned judge of the Appellate Court passed an order of *status quo* with regard to the nature, character and possession of the suit property.

It is well-settled that Record of Rights is a document of possession. Though the presumption of the Record of Rights is a rebuttable one but no document has

been produced at this stage by the petitioners herein in support of their case that the entry in the record of rights is an erroneous one.

That apart, the order of injunction passed in Title Suit No.486 of 2023 cannot have any effect as the plaintiff of Title Suit No.486 of 2023 is not a party in the instant suit. That apart, the opposite parties also claimed to have transferred their right in respect of the suit property.

This Court fails to understand as to how the opposite party can be said to be a person aggrieved against such order at this stage.

For all the reasons as aforesaid this Court is not inclined to interfere with the order impugned.

The learned trial judge is directed to make an endeavour to dispose of the temporary injunction application as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

Accordingly, CO 2790 of 2025 stands disposed of.

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.)