

Item No.177
21.11.2025
Court. No. 06
CP

CO No.3488 of 2025

Nityadhara Tradelink Private Limited & Ors.
VS
Moslem Molla & Ors.

*Mr. Aniruddha Chatterjee, Sr. Adv.,
Mr. Suddhasatva Banerjee,
Mr. Pratik Bagaria,
Mr. Rahul Karmakar,
Ms. Rituparna Chatterjee,
Ms. Khusboo Chowdhury,
Mr. Aurin Chakraborty
Ms. Megha Yadav*

.....for the Petitioners.

*Mr. Sounak Bhattacharya
Mr. Sounak Mandal
Mr. Abhirup Halder
Mr. Anirban Saha Roy
Ms. Bipasha Bhattacharyya*

.....for the opposite parties.

The revisional application arises out of an order dated August 30, 2025, passed by the learned Civil Judge (Senior Division), 1st Court, Baruipur, (in charge of) learned Civil Judge (Senior Division) 2nd Court, Baruipur in Misc. Appeal No. 60 of 2025.

The Misc. Appeal arose out of an order refusing an ad interim injunction in favour of the opposite party nos. 1 to 14/plaintiffs in Title Suit No.619 of 2025. The learned Civil Judge (Junior Division), 1st Court, Baruipur refused to grant ad interim injunction on coming to a, prima facie, finding with regard to possession of the defendants. The claim of the defendants were based on deeds which were registered ten to

thirty years ago. According to the learned trial judge, those deeds were not under challenge. The defendants were appearing in the latest LR record of rights. Thus, ex parte ad interim injunction was not granted. Such order was challenged before the learned appellate court vide Misc. Appeal No. 60 of 2025. The learned Civil Judge (Senior Division), 1st Court, Baruipur passed an ex parte ad interim order, restraining and prohibiting the defendant nos. 1 to 27 from interfering with the peaceful possession of the plaintiffs in connection with the suit property as described in Schedule 'A' of the plaint. Such order is sought to be challenged before this court on various grounds by the defendants.

The defendants contend that the suit property was sold in 1963 by Ahed Ali and others who were owners of the property. The property was sold in 1963 to one Amina. In 1966, Amina sold the property to the Nandys. In 1981, the Nandys sold the property to A. N. Instrument. In 2012, A.N. Instruments sold the property to Panchsree and Panchsree sold the property to the petitioners in August 2012. The L.R. records stand in the name of the defendants. The learned appellate court did not consider such fact and also did not consider that the plaintiffs could not trace title through inheritance from Ahad Ali Molla as Ahad Ali Molla and others lost all right in respect of the property sometime in 1963. Unless the deeds of 1963 and 1966 were challenged or set aside by a competent court of law, the plaintiffs lost all right, title and interest in the property.

Moreover, it is submitted that the deed of 1964, which was challenged by the plaintiffs, had a mention of the deed of 1963 by which the property was sold to Amina. The further contention of the petitioners is that a sanction plan was obtained sometime in 2023, upon due conversion of the land and a multi-storied building complex was under construction. When the construction was at the fag end, the suit was filed. It is also submitted that the project is registered under the Real Estate (Regulation and Development) Act.

Mr. Chatterjee, learned senior advocate appearing for the petitioners, submits that the certified copies of the deeds which are under challenge in the suit were obtained sometime in January, 2025 and the suit was filed in August, 2025. Thus, the question of urgency in granting an ex parte ad interim order of stay or injunction did not arise.

Mr. Bhattacharya, learned advocate appearing for the opposite party nos. 1 to 14/plaintiffs submits that the suit property being L.R. Dag No.28 is classified as 'Danga' and as such, the petitioners could not have constructed on the said land. That the plaintiffs were tracing their title from Ahad. The right, title and interest of the defendants, if at all, cannot be traced to Ahad either through subsequent sale or otherwise. The plaintiffs claim to be successors of Ahad. Moreover, the plaintiffs' property is still a vacant land and the petitioners tried to encroach upon the same and tried to demolish the boundary wall.

Having considered the rival contentions of the parties, this court finds that the learned appellate court did not consider the issue of urgency that was required to be, prima facie, established while granting an ad interim order of injunction in the Misc. Appeal. When the learned trial judge had refused the prayer for ad interim injunction with reasons, the appellate court should not have reversed such order. The appellate court also did not take into consideration the L.R. records which stood in the name of the defendants.

It is well-settled that in case of a conflict in the land records, the latest land record shall prevail.

Under such circumstances, there is a rebuttable presumption that the defendants are in possession of the property. With these findings, the order dated August 30, 2025 is set aside. The court permits the construction on the portion which was exclusively under construction as per the sanction plan.

The Misc. Appeal stands disposed of as nothing remains to be decided in the same Misc. Appeal. The learned trial judge is requested to dispose of the injunction application within two months from receipt of the written objection to the injunction application. The objection to the injunction application will be filed within a fortnight from the communication of this order.

All steps taken in the interregnum by the defendants shall abide by the final decision by the learned trial judge.

The learned trial judge will decide the application independently.

The revisional application is accordingly disposed of.
There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)