

Court No. 6
(265719)

26.09.2025
(AD 22)
(S. Banerjee)

CO 3643 of 2025

Pratima Karmakar & Ors.
Vs.
Ganesh Chandra Pal

Mr. Ayan Banerjee
Mr. Ajeyo Chowdhury

...for the petitioner

Mr. Prosenjit Mukherjee
Mr. Arghya Kamal Das
MR. Nirmalya Kumar Das

...for the opposite party

Affidavit of service filed in Court today, is taken
on record.

This application under Article 227 of the
Constitution of India is at the instance of the plaintiff
and is directed against order no. 10 dated August 29,
2025 passed by the learned Civil Judge (Jr. Division)
2nd Court at Chandernagore, Hooghly in Title Suit No.
156 of 2025. By the order impugned, several
applications were disposed of and one of such
applications was under Section 151 of the Civil
Procedure Code filed by the petitioner praying for a
direction upon the defendant to unlock the lock
which was allegedly put by the defendant over the
padlock of the plaintiffs on front door of the shop
room and if the defendants do not unlock the same
willfully, to direct the Officer in Charge of Haripal

Police Station to assist the plaintiff for unlocking the lock of the defendant put on the door by the plaintiff with the help of local locksmith.

The learned trial judge, by the order impugned, rejected the application under Section 151 of the Civil Procedure Code on the ground that if the order for breaking open the padlock is allowed, it will tantamount to restoration of possession of the suit property where the main prayer of the plaintiff is declaration of his tenancy right.

Mr. Banerjee, learned advocate appearing for the petitioners submits that in violation of the order of injunction, the defendant/opposite party herein has put a padlock over the lock of the petitioner in front of the shop room of the petitioners. He submits that the application under section 151 of the Civil Procedure Code was filed for implementation of the ad interim order of injunction through police help.

Learned advocate appearing for the opposite party submits that the petitioners have kept the shop room under lock and key for more than two years. He further submits that the opposite party issued repeated letters to the petitioners asking them to open the padlock of the shop room. He further submits that the petitioners have also removed all the articles from the shop room in the meantime. He

further submits that the petitioners are not paying any rent to the opposite party for several years.

Heard the learned advocates of the respective parties and perused the material placed.

The petitioners filed a suit for declaration of tenancy right and for permanent injunction restraining the defendant/opposite party from disturbing the peaceful possession of the plaintiffs/petitioners in respect of the scheduled shop room and also from damaging the business articles of the petitioners from the scheduled premises and from damaging or demolishing the scheduled shop room until possession from the petitioners is taken with due course of law. In connection with the said suit, the petitioners filed an application under Order 39 Rules 1 and 2 of the Civil Procedure Code and prayed for ad interim order of injunction. The learned trial Judge by an order dated May 7, 2025 passed the ad interim order of injunction restraining the defendant/opposite party from disturbing the peaceful possession of the plaintiffs/petitioners in respect of the shop room, as mentioned in the schedule of the injunction application.

Alleging that the defendant/opposite party has put a padlock on the front door of the shop room over four padlocks of the petitioners in violation of the

order of injunction the petitioners filed an application under section 151 of the Civil Procedure Code praying for a direction upon the defendant/opposite party to remove the padlock put by the defendant/opposite party and if the same is not put by the defendant/opposite party, the same should be directed to be removed with the assistance of the local police and the local locksmith. Such application under section 151 of the Civil Procedure Code was rejected by the impugned order on the ground that the direction upon the police to break open the padlock would tantamount to restoration of possession in the suit.

The defendant/opposite party contested the application under section 151 of Civil Procedure Code by filing a written objection thereto. In paragraph 9 of the said written objection, it was specifically stated that the defendant has not put any lock on the shop room. In paragraph 7 of the said written objection, it has been specifically stated that from the eviction notice, it is clear that after the death of the original tenant of the suit premises, the same is kept under lock and key and the condition of the suit premises is being deteriorated day by day.

After going through the averments made in the said written objection, this Court finds that the

defendant/opposite party has not disputed the possession of the petitioners in respect of the said shop room. The defendant/opposite party claims to have issued an eviction notice on the ground as contemplated under section 6 of the West Bengal Premises Tenancy Act and one of the grounds stated in the written objection is that after the death of the original tenant, the premises is being kept under lock and key. Thus, there is no dispute as to the fact that the original tenant was in possession of the suit property and upon his death, the suit property is under the control and possession of the present petitioners.

It is not in dispute that the petitioners are in possession of the suit property. Since there is no factual dispute with regard to the possession of the suit premises and the learned trial Judge has passed an ad interim order of injunction in order to protect the possession of the petitioner in the suit property, this Court is of the considered view that under such circumstances, the trial Court ought to have stepped in and passed an order directing implementation of the ad interim order of injunction through police help as the petitioner have made out a case of violation of the order of injunction.

The petitioners alleged that over and above four padlocks of the petitioners, the defendant has put the fifth padlock. However, the learned advocate appearing for the opposite party denies that the defendant/opposite party has put the fifth padlock on the main door of the shop room. Since the defendant/opposite party denies that they have put on the padlock on the door of the suit shop room, they cannot object to the breaking of such padlock.

In view thereof, this Court feels that the Officer-in-Charge, Haripal Police Station should be directed to render necessary assistance to the petitioners to break open the padlock, the keys of which is not lying with the petitioners, at present.

For all the reasons as aforesaid, this Court is inclined to interfere with the order impugned.

Accordingly, C.O. 3643 of 2025 stands allowed. The impugned order stands set aside.

The Officer-in-Charge of Haripal Police Station is directed to render necessary assistance to the petitioner for breaking open the padlock on the door of the suit shop room with the help of local locksmith.

After this order is dictated, learned advocate for the defendant/opposite party submits that a direction

be passed upon the learned trial Judge to dispose of the suit expeditiously.

Such prayer is not opposed by Mr. Banerjee, learned advocate appearing for the petitioners.

In the light of the submissions made by the learned advocate for the defendant/opposite party, learned Civil Judge (Jr. Division) 2nd Court at Chandernagore, Hooghly is requested to make an endeavour to dispose of Title Suit No. 156 of 2025 as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

(Hiranmay Bhattacharyya, J.)