

19.11.2025
Ct. No. 06
Sl. No.12
skg

C.O. No. 3912 of 2025

Debu Thakur & Anr.
Vs.
Utpal Das & Ors.

Mr. Sanjib Seth

.....for the petitioner.

Mr.Ritendra Banerjee,
Mr. Prasenjit Debnath
Mr. Amritansu Sengupta,

..... for the Defendant/
opposite party no.3

The petitioners are the plaintiffs in Title Suit no. 88
of 2022.

The petitioner is aggrieved by the order dated
August 25, 2025 passed by the learned Civil Judge (Sr.
Div.) Chandannagore, Hooghly. The learned Court
rejected the application by which the petitioner has
prayed for temporary injunction against the defendant
no.3 from transferring or alienating, the suit property to
any third party, till the disposal of the suit and further
restrain the defendant no.3 and her men, agents and
servants from disturbing the peaceful possession of the
plaintiffs/petitioners. The petitioners are the plaintiffs in
Title Suit no. 88 of 2022. An ad interim order was also
prayed for. The learned Court rejected the said
application with reasons.

Mr. Seth, learned advocate for the petitioner, submits that an application was filed under Section 94(c) of the Code of Civil Procedure, and not under Order 39 Rules 1 and 2 of the Code of Civil Procedure. This court is of the view that, nomenclature of the application does not change the nature and character of the application which has been filed. Section 94 is only the substantive law and the applications must be disposed of as per the rules, that is, order 39 Rules 1 and 2 of the Code of Civil Procedure. The averments in the application, the prayers and reliefs sought for, are the determinant factors to decide the exact nature of the said application. The order passed will determine whether the same is revisable or appealable. Any order passed rejecting a prayer for temporary injunction is appealable order. In this case, the prayer for temporary injunction was refused. Upon perusal of the actual content of the application, the relief requested and the order impugned, this court is satisfied that this is an order refusing a prayer for temporary injunction.

Under such circumstances, the application is dismissed as not maintainable. The dismissal of the application shall not prevent the petitioner from approaching the appropriate forum, in accordance with law.

The application is dismissed on the ground of maintainability and not on merits.

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

(Shampa Sarkar, J.)