

19.11.2025
Ct. No. 30
SL No.58

RVW 81 of 2025

**Sri Rasbihari Maity & Ors.
Vs.**

Sri Sayan Maity & Ors.

In

CO 4013 of 2024

Sri Sayan Maity

Vs.

Sri Jaharlal Maity & Ors.

Mr. Rajkrishna Mondal

..... for the Petitioners

Mr. R. Alam

Mr. S.M. Hassan

Ms. Anupama Yasmin

..... for the Opposite Parties

- 1.** The review application in the present case has been preferred on the ground that there is an error apparent on the face of the order dated 07.02.2025 passed by this Court.
- 2.** It is the contention of the opposite party/petitioners herein that as the order challenged in the civil revision was an appealable order under Order 43 Rule 1 (R) of the C.P.C., the Court erroneously passed the order under review. It is further stated that the Court by granting an interim order which was not in existence was pleased to pass an order

without hearing the opposite parties/petitioners herein.

- 3.** On hearing the Learned Counsels for the parties and on perusal of the materials on record, it appears that the opposite parties/petitioners herein were duly represented and heard at the time of hearing and also passing of the order dated 07.02.2025.
- 4.** This Court while considering the revisional application passed a speaking order and on considering the prayer of the plaintiff/petitioner therein, granted post facto leave to implead the minors in the said suit. As there was already an interim order in the suit in existence, the same was revived in the interest of justice and permitted to continue till disposal of the application under Order 39 Rule 1 and 2 of the C.P.C.
- 5.** No fresh consideration of the injunction application was under taken by the Court. This Court then directed the trial Court to proceed expeditiously in accordance with law.
- 6.** Learned Counsel for the opposite party/petitioner herein has relied upon the provision under Order 43 Rule 1(R)

C.P.C., which relates to an order under Rule 1, Rule 2, etc. under Order 39 of the C.P.C.

7. In the present case, it was not an order **simplicitor** under Order 39 Rule 1 and 2 of the C.P.C. **The revival of an interim order of injunction was connected/related to the order under challenge, wherein primarily the Trial Court had rejected an application seeking to make the minors a party to the suit, on a technical ground that, no leave had been sought for.**
8. Learned Counsel for the petitioners herein has also filed written notes and relied upon the judgment of the Supreme Court in **(2022) 10 Supreme Court Cases 477: (2023) 1 Supreme Court Cases (Civ) 734: 2022 SCC Online SC 817, MOHAMED ALI Vs. V.JAYA AND OTHERS.**
9. The said judgment relates to a writ court not entertaining cases, in which alternative remedy is available.
10. In the present case, the appellate forum as stated by the petitioners was not available to the petitioners in view of the discussions above.

11. Thus, considering the said facts and circumstances, there being no error apparent on the basis of the record, the review application being **RVW 81 of 2025 stands rejected.**

[Shampa Dutt (Paul). J]