

29.1.2025
Item No.28
BR

CO 4044 of 2024
M/s Ganguly Home Search Private Ltd.
And another
-vs-
Alok Kumar Bhattacharya & Ors.

Mr. Sounak Kumar Bhattacharya,
Mr. Sounak Mondal,
Mr. Anirban Saha Roy
... for the petitioners

The present revisional application has been preferred against an order dated 3.10.2024.

It appears from the order under revision that the trial Court rejected the prayer of the present petitioner being the defendants no. 1 and 2 praying for filing objection in the temporary injunction petition on the ground that no injunction was prayed for against them. It has been further held that the prayer for temporary injunction was against the defendants no. 3 and 4.

On hearing the learned counsel for the petitioner and considering the materials on record service in this case is dispensed with. Admittedly the defendants no. 1 and 2

who are the petitioners herein are also the **principal defendants in the title suit.**

Though no injunction has been prayed for against the defendants no. 1 and 2, there was no reason for the Court not to permit the parties to file an objection as the same would not prejudice the parties in the said case.

Having been made principle defendants and the suit being a suit for declaration and permanent injunction, the point for consideration while disposing of an application under Section 39 Rule 1 and 2 CPC involves considering the pleadings of the parties in the plaint also.

It is normally the practice that most of the pleadings in the plaint are part of the pleadings in the injunction application also and as such even though no relief has prayed for against the defendants no. 1 and 2, there was no reason for the Court not to permit them to file an objection, when admittedly certain facts which are part of the plaint is also pleaded in the injunction petition and the same is required to be addressed by the plaintiff in the interest of justice.

Considering the said fact, the order under revision is hereby set aside and the defendants no. 1 and 2, the petitioners herein are permitted to file their written

objection to the injunction petition within a period of 15 days from the date of this order before the learned trial Court and the trial Court on considering the materials before it shall dispose of the injunction application expeditiously in accordance with law.

Accordingly, CO 4044 of 2024 is disposed of.

Let a copy of this order be sent to the learned trial Court.

(Shampa Dutt (Paul), J.)