

17.12.2025
Ct. No. 06
Sl. No.4
skg

C.O. No. 4372 of 2025

Mercury Realcon LLP
Vs.
P.R. Steel & Alloys Pvt. Ltd. & Ors.

Mr. Jaydip Kar,
Mr. Debjit Mukherjee,
Mr. Shivam Pathak,

.....for the petitioner

Mr. Jishnu Chowdhury, Sr. Adv.
Mr. Satadeep Bhattacharyya,
Mr. Rajarshi Ganguly,
Ms. Sriparna Mitra,
Mr. Vidhya Bhusan Upadhyay,

....for the no.2

Mr. Abhrajit Mitra, Sr. Adv.,
Mr. Kamran Hussain,

.... for opposite party no. 1

1. Affidavit of Service is taken on record. Service of this application upon opposite party No. 3 to 5 is dispensed with.
2. The cause title of the application is required to be corrected. Mercury Realcon LLP is the petitioner before this court. The name of the LLP should appear as the first party in the cause title, as petitioner and P.R. Steel and Alloys Private Limited shall be described as the opposite party/appellant No. 1.
3. The petitioner is aggrieved by an order dated December 3, 2025, passed by the learned District Judge, Alipore, South 24 Paraganas in Misc. Appeal

No. 247 of 2025. The petitioner filed an application for addition of party. The said application was kept pending for hearing and the ad interim order of injunction dated July 31, 2025, was extended.

4. Mr. Jaydip Kar, learned Sr. Advocate for the petitioner submits that Title Suit no. 1218 of 2025 was filed by P.R Steels before the learned Civil Judge (Jr. Div.) 1st Court at Alipore. The suit was for declaration, delivery and cancellation and permanent injunction. The Trial court granted leave to the plaintiff, a homebuyer, to proceed with the suit in representative capacity.
5. The learned trial Court refused to pass an ad interim order. The miscellaneous appeal was preferred by P.R. Steels being Misc. Appeal No. 47 of 2025. The said miscellaneous appeal is pending and an ad interim order was passed by the learned appeal court upon holding that a, prima facie, case for interim protection had been made out by P.R. Steel, which was the home buyer under the agreement for sub-lease. The court recorded that the home buyers would be rendered remediless and would not be in a position to enforce their right over their interest in the suit property, in view of the unilateral termination of the agreement at the instance of the opposite party No. 2. The court also observed that the issues involved in the suit, prima facie, did not cover the disputes which were before the NCLT. Upon such finding, an ad interim

order of injunction was passed, restraining the opposite party no. 2 herein and its men, agents and servants from giving effect to the letter of termination dated August 7, 2018.

6. The court recorded that the trial judge had granted leave to the plaintiff to proceed with the suit in a representative capacity.
7. Mr. Abhrajit Mitra, learned Senior advocate for the plaintiffs submits that the plaintiff is interested in getting the appeal heard, so that the interim order already passed can be made absolute.
8. Mr. Jishnu Chowdhury, learned Senior Advocate for the opposite party No. 2, submits that, the suit is a mala fide one. A termination notice of 2018 was sought to be challenged in 2025. The suit was barred by limitation. The home buyers do not have any right to file an independent suit. The NCLT has already adjudicated the dispute between the opposite party No. 2 and Avani. It is submitted that, if the home buyers have any claim against the developer, they should have gone to the NCLT.
9. The submissions of Mr. Chowdhury are factual, and shall be relevant for the appeal court to decide whether the ad interim injunction should be continued. This court is not inclined to make any observation on the submissions made, either on the merits of the suit or the appeal.

10. In my view, as the trial judge had already granted liberty to the plaintiff to file and proceed with the suit in a representative capacity. The petitioner, being a home buyer like the plaintiff, ought to have been added as a party in the miscellaneous appeal. Instead of doing so, the learned court extended the ad interim injunction and kept the application pending. The application under Order 1 Rule 10 of the Code of Civil Procedure filed by the petitioner in the Misc. Appeal, is allowed. The petitioner shall be added as a party in the miscellaneous appeal. The petitioner shall be entitled to file relevant documents before the learned appeal court by way of firstly and the appeal court shall hear all the parties, independently. It is expected that the learned appeal court shall proceed expeditiously, without granting unnecessary adjournments. It is well settled that, the appeal court can hear the appeal from an order of refusal of an ad interim injunction, on the basis of documents filed before it.

11. Let this matter appear on February 9, 2026 at 2.p.m.

(Shampa Sarkar, J.)