

S/L 35
06.01.2025
Court. No. 3
Sourav

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

**CO 120 of 2024
With
CAN 2 of 2024**

**Terai Infrastructure Limited
Vs.
Gadi Sing Roy & Ors.**

*Mr. Bikramaditya Ghosh
Ms. Supriya Singh*

...for the petitioner.

*Mr. Minindo Paul
Mr. Nabankur Paul
Ms. Sutapa Sen Paul
Ms. Bedashruti Bose
Mr. Subham Das
Mr. Bodhisatya Ghosh*

...for the opposite party no. 8 and 8A.

In Re: CAN 2 of 2024

1. This is an application for impleading the name of Smt. Harjit Kaur Saluja as opposite party.
2. Perused the petition under consideration.
3. Heard learned advocates for the parties.
4. Prayer is allowed.
5. Let Smt. Harjit Kaur Saluja is added as opposite party no. 8A,
6. Learned advocate for the petitioner is requested to correct the cause title in Court today in the light of the observation made hereinabove.
7. Accordingly, the instant application being CAN 2 of 2024 is thus disposed of.

In Re: CO 120 of 2024

1. In this revisional application as filed under Article 227 of the Constitution of India, the order and judgment dated July 4, 2024 as passed by the learned Additional District Judge, 4th Court, Jalpaiguri in Misc. Appeal No. 22 of 2006 is impugned.
2. By the impugned order and judgment, the said First Appellate Court while disposing the aforementioned appeal directed both the appellant and the respondents of the said appeal to maintain *status quo* in respect of the nature, character and possession of the suit property as on date till disposal of the injunction application as pending before the learned Civil Judge (Senior Division), Jalpaiguri in connection with Title Suit No. 67 of 2006.
3. The plaintiff felt aggrieved and thus preferred the instant revisional application.
4. At the very outset, learned advocate for the plaintiff/revisionist draws attention of this Court to the order No. 2 dated 31.07.2006 as passed in Title Suit No. 67 of 2006 by the learned trial Court. It is contended on behalf of the petitioner/plaintiff that in a suit for declaration and injunction, the learned trial Court after being satisfied with regard to the *prima facie* case of the plaintiff, balance of

convenience and inconvenience and chance of suffering irreparable loss and injury restrained the defendants by way of ad interim order of injunction from disturbing the peaceful possession of the plaintiff in respect of the suit property.

5. It is submitted further on behalf of the petitioner/plaintiff that subsequent thereto the opposite party no. 8 and added opposite party no. 8A, Smt. Harjit Kaur Saluja have preferred the said appeal after taking leave to file such appeal and subsequently the respondent no. 8, Daljit Singh Saluja and added respondent no. 8A, Harjit Kaur Saluja were also added as party defendants in the said suit before the learned trial Court. It is submitted on behalf of the petitioner/plaintiff that while allowing the Misc. Appeal No. 22 of 2006, the First Appellate Court did not assign any reason whatsoever for converting the ad interim order of injunction to an order of *status quo*.
6. It is thus submitted on behalf of the plaintiff/petitioner that the instant revisional application may be allowed by setting aside the impugned order.
7. Per contra, learned advocate for the opposite party no. 8 and added opposite party no. 8A contends before this Court that it is the specific case of the opposite party no. 8 and added opposite party no. 8A that suppressing the material fact that the

present opposite party nos. 8 and 8A are in possession of the suit property, the ad interim order of injunction was obtained from the learned trial Court.

8. This Court has given due consideration over the submissions of the learned advocates for the contending parties. This court has meticulously gone through the impugned order as passed by the learned First Appellate Court in Misc. Appeal No. 22 of 2006. Admittedly, before the learned trial Court it is the case of the plaintiff/company that it is in settled possession of the suit property and the said plaintiff/company is apprehending unlawful dispossession at the instance of the defendants.
9. Before the First Appellate Court, the present opposite party nos. 8 and 8A have claimed that they are in settled possession of the suit property. Probably, such claim and counter-claim persuaded the learned First Appellate Court to alter the nature of ad interim order of injunction.
10. It is settled principle of law that a court must be very slow to pass an order of *status quo* without determining the status of the parties in respect of the suit property. As rightly noticed by the learned First Appellate Court that before the learned Trial Court the injunction application has not yet been disposed of since before the learned trial Court none of the defendants have filed the writ objection.

11. Such being the position, this Court is of considered view that while entertaining an appeal against the ad interim order of injunction, the learned First Appellate Court ought not to have altered the ad interim order of injunction without coming to a specific finding with regard to the right, title and interest including the status of the parties in respect of the suit properties.
12. In view of such, this Court thus finds sufficient merits in the instant revisional application. Accordingly, the instant revisional application is hereby allowed.
13. Consequently, the impugned judgment dated July 4, 2024 as passed in Misc. Appeal No. 22 of 2006 is hereby set aside. .
14. Consequently, the ad interim order of injunction as passed by the learned Trial Court on 31.07.2006 is hereby revived.
15. Before parting with, this Court grants liberty to the defendants in Title Suit No. 67 of 2006 to file their written objections against the injunction application as filed by the plaintiff positively within a month from the day of passing of this order. Learned trial Court is further directed to dispose of the injunction application as filed by the plaintiff in Title Suit No. 67 of 2006 preferably within the last day of February, 2025 without granting any unnecessary adjournment to either of the parties after being

satisfied that notices of injunction have been served upon all the defendants.

16. The time limit as framed by this Court is mandatory and preemptory.
17. Department is directed to communicate this Court to the learned trial Court forthwith.
18. With the aforementioned observations, the revisional application being **CO 120 of 2024** is disposed of.
19. It is made clear that the observation as made hereinabove is purely limited for disposal of the instant revisional application and the learned Trial Court is hereby directed not to persuade himself with any of the observation made hereinabove.
20. All points are kept open before the learned Trial Court.
21. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)