

Ct. No. 3
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05.03
2025

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Civil Revisional Jurisdiction

C.O. 158 of 2024

With

IA No. C.A.N. 1 of 2024

With

IA No. C.A.N. 2 of 2025

With

IA No. C.A.N. 3 of 2025

Md. Sohail Rahman @ Sohel Rahaman

Vs.

Sipra Ghosh

Mr. Arnab Saha

...For the Petitioner

Mr. Amalesh Ray

Mr. Nigam Mittal

Ms. Debashree

...For the Opposite Party

This is an application wherein the petitioner has challenged order No. 2 dated 16th July, 2024 by which the Court below granted ad interim order of injunction ex parte against the defendant/petitioner herein restraining them from interfering with the peaceful possession of the plaintiff in respect of the suit property, intended to be continued for a limited period.

Rule 3A of the Order XXXIX makes it clear that where ex parte injunction has been granted by the Court, it shall make an endeavour to finally dispose of application for injunction within 30 (thirty) days from the date of granting injunction. By the said provision two purposes sought to be achieved. Firstly it authorizes power to the Court to grant ex parte ad interim injunction without notice to the opposite

party in urgent cases and secondly it also ensures quick disposal of such applications so that no prejudice or injury is caused to the other side.

In the instant case Court below considering urgency of the matter granted ex parte order of ad interim injunction in favour of plaintiff on 16th July, 2024 but did not make any attempt to ensure quick disposal of the injunction application.

In such view of the matter I find that without going into the merits of the case, the present Application may be disposed of directing the Court below for disposing of the main injunction application after giving opportunity to the parties to contest within a time frame in compliance with Order XXXIX, Rule 3(A) of the Code of Civil Procedure. This is also because there would be chance of losing forum by either of the parties in the event of making comment on merit or making disposal of the injunction prayer by this Court.

In such view of the matter, C.O. 158 of 2025 is hereby disposed of with a direction upon the Court below to dispose of the main injunction application preferably within a period of sixty days from the date of communication of this order.

The Trial Court will give opportunity to the defendant to file written objection against the injunction application and he will also give opportunity to both the parties to contest.

The ad interim order restraining the defendant from interfering with the peaceful possession of the plaintiff in respect of the suit property shall continue till disposal of the main injunction application by the Court below.

I have made it clear that I have not gone into the merits of the case or the injunction application and the Court below will dispose of such application without being influenced by any observation made herein.

In view of disposal of the main revisional application, connected applications, if any, are also disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis, upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)