

S/L 8
06.01.2025
Court. No. 3
Sourav

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

CO 236 of 2024

**Humayun Kabir @ Kabeer & Ors.
Vs.
Md Nasirul Islam**

Ms. Rima Sarkar

...for the petitioners.

1. The petitioners who are the defendants in Title Suit No. 45 of 2024 are aggrieved for long pendency of their application under Order 39 Rule 4 of the Code of Civil Procedure which has been filed on 04.05.2024.
2. It is submitted on behalf of the petitioners/defendants that despite several opportunities have been given, the plaintiff has not filed the written objection against the petition under Order 39 Rule 4 CPC as filed by the defendants and on the contrary, the ad interim order of injunction as passed in favour of the plaintiff by the trial Court is being extended on day to day basis.
3. It is further submitted that there are sufficient merits in the application under Order 39 Rule 4 CPC as filed by the defendant and there is urgent need to hear out the said application by the learned trial Court without granting any further adjournments to the plaintiff who is the opposite party herein.
4. Upon perusal of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, this Court considers that

the instant revisional application can be disposed of without giving any notice to the opposite party/plaintiff in the manner indicated hereunder.

5. It is directed that the plaintiff who is the opposite party herein shall file his written objection against the petition under Order 39 Rule 4 CPC within three weeks from the date of communication of this order after serving copy of the same to the learned advocate for the defendants/petitioners.
6. Liberty is given to the defendants/petitioners herein to file their written objection against the injunction application before the learned trial Court also within three weeks after serving copy of the same to the learned advocate for the plaintiff.
7. Learned Trial Court is directed to dispose of both the applications under Order 39 Rules 1 and 2 CPC as filed by the plaintiff and the application under Order 39 Rule 4 CPC positively within the last day of February, 2025. The time limit as fixed by this Court is mandatory and preemptory.
8. Learned trial Court is directed to act on the server copy of this order.
9. Learned advocate for the petitioners/defendants appearing before this Court is also requested to communicate the server copy of this order to the learned advocate for the plaintiff appearing in the learned trial Court preferably within a week from today.

10. With the aforementioned observations, the revisional application being **CO 236 of 2024** is disposed of.
11. 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.)