

ALP/12/2025

IN THE HIGH COURT AT CALCUTTA
Extra Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

ASURARI NIRMAN PVT. LTD.

-VERSUS-

SAURABH PARMANAND TAPDIYA

BEFORE:

The Hon'ble JUSTICE SHAMPA DUTT (PAUL)

Date : 6th November, 2025.

Appearance:

Mr. Debjit Mukherjee Adv.

Ms. Mobina Ali, Adv.

Ms. Priyanka Jena, Adv.

...for the petitioner.

Mr. Piyush Agrawal, Adv.

Mr. Debjyoti Das, Adv.

Mr. Kaustav De Sarkar, Adv.

...for the respondent.

The Court: Learned counsel appearing for the petitioner submits that though he filed the application praying for transfer of Title Suit No.959 of 2024 (Saurabh Parmanand Tapdiya vs. The Director, Asurari Nirman Pvt. Ltd.) pending before the Court of the learned Civil Judge, Jr. Division, 1st Court, Barasat to the Hon'ble High Court for expeditious disposal, but at this stage he does not press the said prayer for the time being and prays that as per prayer (e), the petitioner's grievance will be addressed if this Court directs the learned trial Court to hear the application under Order XXXIX Rule 4 of the Code of Civil Procedure (CPC) filed by the petitioner/defendant within a specified time.

On hearing both the parties, it appears that the defendant/petitioner herein has filed an application under Order XXXIX Rule 4 of the CPC before the trial Court on 01.07.2025. The trial Court citing the reason that diary is congested, did not fix a date for hearing of the application under Order XXXIX Rule 4 of the CPC, but fixed 12.12.2025 for hearing of the application under Order VII Rule 11 of the CPC and directed written objection to be filed in respect of the application under Order XXXIX Rule 4 of the CPC. The application under Order VII Rule 11 was fixed five months after the same was filed. The defendant/petitioners prayer for early hearing was also rejected by the trial Court on 02.09.2025. Being aggrieved the petitioner has approached this Court.

Learned counsel appearing for the plaintiff/respondent herein submits that he may be granted an opportunity to file written objection to the application under Order XXXIX Rule 4 of the CPC.

On hearing the parties and considering the materials on record, this Court directs the trial Court to hear the application under Order XXXIX Rule 4 of the CPC and dispose of the same in accordance with law by passing a reasoned order by 19th December, 2025. The plaintiff/respondent herein is granted liberty to file his written objection to the said application by 18th November, 2025.

It is clarified that in case the plaintiff/respondent who is enjoying an order of injunction and seems reluctant to have the application under Order XXXIX Rule 4 of the CPC heard, fails to file his written objection as per liberty granted the trial Court shall, without granting any further adjournment, proceed to dispose of the application in accordance with law as directed in this order by the date fixed.

It is recorded that this Court has not gone into the merits of the case of the instant application.

Accordingly, ALP/12/2025 stands disposed of.

(SHAMPA DUTT (PAUL), J.)