

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA  
Civil Appellate Jurisdiction  
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya  
&  
The Hon'ble Mr. Justice Supratim Bhattacharya

FMAT No. 7 of 2026

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CAN 1 of 2026

Saifuddin Mondal

-vs-

SMFG Indian Credit Company Limited

For the appellant : Ms. Pampa Dey Dhabal,  
Mr. Biswarup Chatterjee,  
Mr. Pritam Sarkar

For the respondent : Mr. Shounak Mukhopadhyay,  
Ms. Soni Ojha,  
Ms. Sambrita B. Chatterjee

Heard on : March 24, 2026.

Judgment on : March 24, 2026.

**Sabyasachi Bhattacharyya, J.:**

1. The affidavit-of-service filed in Court today be kept on record.
2. The present appeal has been preferred against an order whereby the application filed by the present appellant under

Order XXXIX Rule 2-A of the Code of Civil Procedure has been turned down on the ground of non maintainability against a juristic person.

3. In the said application, allegations of contravention of an ad interim injunction were levelled against the defendant-respondent company, which is a juristic entity.
4. Learned counsel appearing for the appellant argues that Rule 2-A of Order XXXIX of the Code does not distinguish between a juristic person and a human being.
5. It is submitted that within the contemplation of Indian law, both biological entities/natural persons and juristic entities/corporate entities come within the purview of the term “person”.
6. Moreover, Rule 2-A also provides for the attachment of the property of a person, who is in breach of injunction, which provision is in any event applicable to a juristic entity as well.
7. Learned counsel appearing for the respondent opposes such contentions and submits that although there is no specific definition of the term “person” provided in the Code, Rule 2-A envisages simultaneous incidence of imprisonment and attachment on the selfsame person, thereby clearly indicating

that a juristic entity cannot come within the purview of the said provision.

8. By placing reliance on the language of the said provision itself, it is pointed out that Rule 2-A (1) provides that the court “may order the property of the person guilty of such disobedience or breach to be attached, and may also order such person to be detained in the civil prison”.
9. The use of the expression “and may also” clearly indicates that there may be simultaneous incidence of both the punishment for the breach of any injunction.
10. The punishment of civil imprisonment can only be inflicted on a natural person and as such it is argued that a corporate entity or a juristic entity could not have been within the contemplation of the legislature while framing the said provision.
11. That apart, on merits as well, it is submitted that the appellant has not made out any case of contravention of any injunction order.
12. Learned counsel, on instructions, also submits that the provisions of Rule 3 of Order XXXIX was not complied with by the appellant as well.

13. Learned counsel for the respondent cites a judgment in the case of *Cross Fit LLC Vs. Renjity Kunnumal and another* reported at *2023 SCC OnLine Del 6261* for the proposition that the standard of proof in a proceeding under Order XXXIX Rule 2-A of the Code is akin to the power of civil contempt and the proof has to be “beyond any doubt”.
14. In view of the issues involved in the appeal as well as the application being similar, we take up the appeal for hearing along with the application.
15. The short question involved herein is whether an application under Order XXXIX Rule 2-A of the Code is maintainable against a juristic entity.
16. The language of Rule 2-A does not specifically shed any light on such question. However, it is seen that both the punishments, civil imprisonment and attachment, have been provided, akin to a contempt proceeding, in the said provision for disobedience or breach of an injunction order.
17. Although learned counsel for the respondent contends that the incidence of such punishment has been simultaneously inflicted on the selfsame person, thereby creating a probability that both punishments can be meted out against a person in

contempt, which indicates that the person has to be a natural person and not a juristic entity, with due respect to the erudition of learned counsel for the respondent, we cannot accept such submission.

18. As per the language of Rule 2-A, both the punishments of attachment and imprisonment can be inflicted either simultaneously or in isolation of one from the other.
19. Although it is obvious that a juristic entity cannot be imprisoned, fact remains that the property of a juristic entity can be attached in case of disobedience or breach of injunction.
20. The provision does not contemplate simultaneous infliction of both the punishments but also takes within its fold the possibility of any one of the punishments being handed out in isolation of the other.
21. Since attachment of the property of a juristic entity is possible, although the relief in a proceeding under Order XXXIX Rule 2-A against a juristic entity would be truncated, nonetheless, there is no bar *per se* in making such an application in respect of a juristic entity as well, in which case the remedy would be restricted to attachment only.

22. The law, particularly as reflected in the Code itself, also recognizes the attachment of property of a corporate entity.
23. Order XXI Rule 32(2) of the Code, which is in respect of execution of a decree, inter alia, for injunction, envisages that a decree for injunction may be enforced by the attachment of the property of the Corporation or, with the leave of court, by the detention in the civil prison of the Directors or other Principal Officers thereof, or by both attachment and detention. Although execution and contempt operate in separate fields, inspiration can be drawn from the concept of execution as an analogy to the contempt jurisdiction as provided in Order XXXIX Rule 2-A of the Code as well.
24. Insofar as the implementation of an injunction order by way of punishment for disobedience of the same in respect of the juristic entity is concerned, although there is no clear provision in that regard in Rule 2-A, if we draw analogy from order XXI Rule 32(2) of the Code, it is very well possible that an order of attachment may be passed against a juristic or corporate entity whereas in the event detention in civil prison is sought against the Directors or other principal Officers of such entity, leave is required to be taken from the court and such persons are

required to be impleaded as parties to the application under Order XXXIX Rule 2-A of the Code.

25. Viewed from the above perspective, the learned trial Judge erred in law in holding that there is a complete bar in maintainability of an application under Order XXXIX Rule 2-A of the Code against a juristic entity and rejecting the said application of the appellant on such ground alone.
26. Accordingly, FMAT No. 7 of 2026 is allowed on contest, thereby setting aside the impugned order, bearing Order No. 18 dated December 19, 2025 passed by the learned Judge, Fifth Bench, City Civil Court at Calcutta in Miscellaneous Case No. 15342 of 2025, arising out of Title Suit No. 2347 of 2023, and directing the learned trial Judge to rehear and dispose of the application filed by the appellant under Order XXXIX Rule 2-A of the Code against the defendant-respondent on merits upon giving adequate opportunity of hearing to both the parties.
27. It is made clear that nothing in this order shall prevent the appellant from impleading the principal Officers or the Directors of the respondent-company in the application under

Order XXXIX Rule 2-A of the Code, if the appellant so deems fit.

28. We further make it clear that the merits of the application under Order XXXIX Rule 2-A of the Code have not been touched by this Court, which this Court could not in any event, since the learned trial Judge did not enter into the merits as well, and it will be open to the learned trial Judge to decide the said application on its own merits, independent of any of the observations made above.

29. Consequentially, CAN 1 of 2026 is disposed of as well.

30. Urgent photostat certified copies of the order, if applied for, be supplied to the parties at an early date.

I agree.

**(Sabyasachi Bhattacharyya, J.)**

**(Supratim Bhattacharya, J.)**