

10.04.2026
SL No.4
Court No.12
(gc)

CO 261 of 2023

**Bajoria Finance Private Limited & Ors.
Vs.
JIS University & Anr.**

Mr. Debjit Mukherjee,
Mr. Ratul Das,
Ms. Priyanka Jana,
Mr. Bhaskar Mukherjee,
Mr. D. Dutta

...for the Petitioners.

Mr. Udaynarayan Betal,
Mr. Vinit Pandey,
Mr. Mriganka Patra

...for the Opposite Party No.1.

1. The civil revisional application arises out of an order dated December 6, 2022 passed in Misc. Appeal No.205 of 2022. By the order impugned, the learned District Judge, Howrah passed an order of stay of the order of status quo dated November 4, 2022 passed by the learned Civil Judge (Junior Division), 4th Court, Howrah in connection with Title Suit No.1533 of 2022. The said order of stay was directed to continue till the appearance of the opposite parties and February 6, 2023 was fixed for S.R. and A/D.
2. Mr. Debjit Mukherjee, learned Advocate for the plaintiffs/petitioners submits that the learned Appeal Court could not have allowed the stay indefinitely as the order amounted to allowing the

misc. appeal on the first day itself. He further submits that upon consideration of the affidavit accompanying the application for injunction and the materials produced before the learned trial Court, an order of status quo was passed, upon holding that a, prima facie, case had been established. Referring to the plaint, it is submitted that the suit was filed for declaration and injunction. According to Mr. Mukherjee, the averments made in the plaint would clearly indicate that the title deeds had been produced before the learned Civil Judge, Junior Division. The documents of possession, especially the record of rights, were before the learned trial Judge. On the basis of such documents, the learned trial Judge, upon being satisfied that the plaintiffs had a good case to go to trial, protected the property for a brief period and directed compliance of the provisions of Order 39 Rule 3 of the Code of Civil Procedure.

3. It is submitted that aggrieved by the order of status quo, the opposite party no.1 preferred the misc. appeal. On the very first day of the misc. appeal, the order of stay was granted on two grounds:-

- a) The learned trial Judge did not record the status of the property while granting the order of status quo.

b) An infrastructural project, that is, a medical college was being constructed on the suit plot and injunction should not be granted in respect of such infrastructural project. Reliance was placed on Section 41(ha) of the Specific Relief Act.

4. Mr. Betal, learned Advocate for the opposite party no.1 had submitted on instruction on the earlier occasion that, the medical college had been constructed and the classes were going on.
5. Under such circumstances, this Court is of the view that the functioning of the medical college from the premises on which the same has been allegedly constructed i.e., the suit plot, cannot be disturbed at this stage.
6. However, I do not find from the records that any rival title deed had been produced by the opposite party no.1. The learned Appeal Court had not recorded the factum of possession or title of the opposite party no.1 and had based the order entirely on the basis of the fact that an infrastructural project could not be stopped by way of an order of status quo. The specific case of the appellant before the appeal Court was that the construction of the medical college could not be stopped by the learned trial Judge. On this ground

alone, the order of status quo was stayed by the appeal Court.

7. As it is the submission of Mr. Betal that the construction of the medical college is more or less complete and the classes are running, this Court is of the view that the fate of the said construction shall be subject to the decision of the learned Trial Judge in the application for injunction. However, the medical college will continue but no further construction will be permitted over the suit property and no third party interest shall be created, in respect of the property. The suit property shall not be encumbered in any way. This order will continue for a period of four months or till the disposal of the application for injunction, whichever is earlier.
8. It is made clear that, for the day to day running of the college, normal repair works can be permitted with the leave of the learned Trial Judge.
9. This order is restricted to the suit plot as reflected in the schedule of the injunction application.
10. Accordingly, CO 261 of 2023 is disposed of.
11. Both the learned Advocates for the parties submit that nothing remains to be decided in the misc. appeal. Accordingly, the misc. appeal stands disposed of.

12. The learned Trial Judge is directed to dispose of the application for injunction within a period of three months from date, upon allowing the opposite party no.1 to file an objection to the application for injunction.
13. Let such objection be filed within two weeks from date.
14. There shall be no order as to costs.
15. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)