

07.4.2026
Ct. no. 6
D/L.14
Samarpita

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
(Appellate Side)

C.O. 823 of 2026

Antara Das
Vs.
Abhijit Das & Ors.

Mr. Supratik Syamal

... for the Petitioner

Mr. S.K. Roy

.... For the Opposite Party No. 1

1. This revisional application is directed against an order dated January 27, 2026, passed by the Civil Judge (Jr. Div.), 5th Court at Alipore, South 24 Parganas, whereby, the petitioner's applications under Order 39 Rule 4 of the Code of Civil Procedure, 1908 and Section 151 of the Code have been rejected.
2. It is not in dispute, that an order passed on an application under Order 39 Rule 4 of the Code is appealable under Order 43 Rule 1 (r) of the Code.
3. As regards the application under Section 151 of the Code, by the said order, the petitioner has prayed for a direction upon the Opposite Party to break open the padlock over the suit property.
4. In the considered view of this Court, such an order could have been passed by the Court in

exercise of its power under Section 94 of the Code read with Order 39 Rule 1 and 2 thereof. In such view of the matter, notwithstanding the nomenclature of the application as under Section 151 of the Code, the order passed thereon would be appealable, under Order 43 of the Code.

5. This Court is cognisant of the fact that orders of injunction can be passed under Section 151 in cases which are not covered by Section 94 and Order 39 Rules 1 and 2 of the Code but the case at hand does not appear to be so.
6. In such view of the matter C.O. 823 of 2026 is not entertained.
7. The petitioner shall be at liberty to take back the certified copy of the order dated January 27, 2026, upon furnishing a Photostat copy thereof, duly countersigned by learned advocate on record for the petitioner.
8. This order shall not preclude the petitioner from challenging the order dated January 27, 2026, in accordance with law.
9. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Om Narayan Rai, J.)