

28.01.2026
M/L No.318
Court No.6
(gc)

CO 962 of 2025

**Sri Manas Bharati
Vs.
Sri Tarak Mondal & Ors.**

Mr. Subhrendu Halder,
Mr. Abhirup Halder,
Mr. Antrik Dawn

.....for the Petitioner.

Mr. Ayan Banerjee,
Ms. Debjani Sengupta,
Ms. Poulomi Ghosh

...for the Opposite Parties.

1. The petitioner is aggrieved by an order dated December 2, 2024 passed by the learned Additional District Judge, Fast Track, 3rd Court at Barasat, District- 24-Parganas (North) in Miscellaneous Appeal No.74 of 2023. The Misc. Appeal arose out of an order dated May 3, 2023, passed by the learned Civil Judge (Junior Division) at Bidhannagar in Miscellaneous Case No.20 of 2022. The Misc. Case arose out of Title Suit No.81 of 2020, which is pending before the learned Civil Judge (Junior Division) at Bidhannagar.
2. The petitioner prayed for several reliefs by filing an application under Order 39 Rule 2A of the Code of Civil Procedure alleging violation of the ad-interim order of injunction.
3. The said application was registered as a Misc. Case and rejected by both the courts. The petitioner alleged

that Title Suit No.81 of 2020 was filed for declaration and permanent injunction, when the opposite parties threatened the petitioner and asked the petitioner to vacate the suit property within 24 hours. On June 22, 2020, the learned Trial Judge passed an ad-interim order of injunction restraining the defendants/opposite parties from evicting the petitioner from the suit property.

4. The petitioner went to his native place at Haldia. He came back on April 25, 2022 at about 7.30 a.m. He found that the main entrance of the suit property which was under lock and key of the petitioner had been shut with another set of locks. Finding no other option, the petitioner rushed to Lake Town Police Station and filed a complaint. It is contended that the police officials reached the suit property and to the utter shock and amazement of the petitioner, several articles, cash and jewellery were found missing. A First Information Report was registered and Lake Town Police Station Case No.89/2022 dated April 28, 2022 was started. The copy of the FIR was annexed to the application. With all these allegations, the petitioner filed the application under Order 39 Rule 2A of the Code of Civil Procedure and prayed for various reliefs. The petitioner alleged disobedience and breach of the order of injunction and prayed for attachment of the

property, committing the opposite parties to civil prison and for restoration of possession.

5. The Misc. Case was rejected.
6. The appeal therefrom was also rejected.
7. Mr. Ayan Banerjee, learned Advocate for the opposite parties submits that the learned Courts had recorded that the petitioner could not prove his allegation of disobedience of the order of injunction. The prayer for restoration of possession was rejected earlier. Thus, the learned trial Judge rightly held that unless the dispossession was proved, no relief under Order 39 Rule 2A of the Code of Civil Procedure could be granted. It is further contended that the reliefs as prayed for in the said application especially one for restoration of possession could not be granted in the proceeding.
8. I find from the records that the petitioner also filed an affidavit-in-chief and the copy of the GD entries and FIR.
9. The records reveal that the opposite parties did not contest the proceedings by filing a written objection. No cross-examination was held.
10. Under such circumstances, this Court is of the view that the learned Trial Judge committed an error in holding that the petitioner could not prove his case.

The order does not display any supporting reasons for such finding. The learned Appellate Court also upheld the order mechanically without considering certain issues which were brought forward by the petitioner before the learned Trial Judge. The Civil Procedure Code empowers the Trial Judge to grant certain reliefs in case a party is able to prove that the adversary had either committed breach of an interlocutory order of injunction or was guilty of disobedience of the court's order. In order to arrive at a finding of such nature or in order to reject a plea of such nature, evidence has to be led and an opportunity should have been given to all the parties to contest such proceeding by leading both documentary and oral evidence.

11. Under such circumstances, the orders impugned before this Court are set aside.

12. The learned Trial Judge is directed to re-hear Misc. Case No.20 of 2022, upon granting an opportunity to the opposite parties to file their written objection to the application and also adduce evidence. The P.W.1 will be entitled to file additional evidence in chief upon receipt of the written objection. Thereafter, the learned Trial Judge shall proceed in accordance with law from the stage of evidence of PW1.

13. This Court has not made any observations with regard to the genuineness of the allegations. This

Court has remanded the matter for fresh hearing on the ground that the parameters to be adjudicated in an application of such nature have not been adhered to by the learned Courts below.

14. Whether the reliefs prayed for or any of the reliefs prayed for can be granted or not, shall be decided by the learned Trial Judge.

15. Accordingly, the revisional application is disposed of.

16. There shall be no order as to costs.

17. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)