

CO. 1188 of 2026

10.04.26
D/L
Sl-13
Ct. 06
(Samar)

Sri Kripa Deb Sur & Anr.
V.
Smt. Papiya Mondal Sur

Mr. Souvick Mitra,
Ms. Disha Roy

... for the petitioners.

Mr. Aniruddha Chatterjee,
Mr. Tarak Nath Haldar,

.... for the opposite party.

1. This revisional application is directed against an order dated March 25, 2026 passed by the learned Civil Judge, (Junior Division), 1st Court at Sealdah in Title Suit No. 83 of 2023 whereby two applications filed by the opposite party under Section 151 of the Code of Civil Procedure, 1908 have been allowed.
2. By the first application, the opposite party had prayed for direction on the plaintiffs/petitioners to provide alternative key of the entrance gate of the building to the defendant and a further direction on the Officer-in-Charge Tala Police Station to render necessary Police Assistance to the opposite party to obtain alternative key of the entrance of the suit premises. The other application under Section 151 was for a direction on the plaintiffs-petitioners to remove the pad lock from the first floor flat of the suit property.

3. The petitioners have instituted Title Suit No. 83 of 2023 praying for declaration and injunction. In the said suit, the petitioners filed an application for injunction and prayed for ad-interim order. Such prayer for ad-interim order of injunction was refused.
4. The petitioner approached the learned Appellate Court by filing Misc Appeal No. 55 of 2023 which was disposed of by an order dated February 05, 2024 thereby allowing the Misc Appeal with the following order:-

“Both the parties are directed to maintain status quo in respect of present possession/occupation of the suit property and both the parties are directed to refrain from restraining the other sides from their free ingress and egress in the suit property and both the parties are restrained from changing the nature and character of the suit property till disposal of the suit pending before the Ld. Civil Judge (Jr. Divn) 1st Court, Sealdah.”

5. Subsequently, the opposite party filed two applications under Section 151 of the Code as already indicated at the beginning of this order. Both the said applications have been disposed of by the order impugned by directing the petitioners to handover duplicate keys of the entrance of the suit property as well as the first floor flat to the opposite

party. Hence the revisional application.

6. Mr. Mitra, learned advocate appearing for the petitioners submits that the petitioners have also filed by the order impugned, the learned Trial Court has virtually rendered the petitioner's suit infructuous.
7. It is further submitted that direction for handing over of duplicate keys in respect of the entrance in suit property and the first floor flat to the defendant could not have been made by the learned Trial Court without first assessing as to whether the same would amount to dispossession of the petitioners from the suit property or not.
8. Mr. Chatterjee, learned senior advocate appearing for the opposite party submits that the order impugned is unexceptionable. He submits that the same has been passed in absolute consonance with the order of injunction dated February 05, 2024 passed in Misc. Appeal No. 55 of 2023 whereby both parties have been directed to "*refrain*" from restraining each other from their free ingress and egress to and from the suit property.
9. Heard the learned advocates appearing for the respective parties and considered the material on record.
10. By the order of injunction dated February 05, 2024 passed by the learned Appellate Court, both

parties have been directed to maintain status quo as regards possession and occupation of the suit property and both the parties have been directed not to impede each other's free ingress to and egress from the suit property. The order also directs the parties to maintain status quo in respect of nature character as well as "possession/occupation" of the suit property. Unfortunately, the order does not state what the status of "possession/occupation" was on the date of this order.

11. There is no dispute that the suit property is jointly owned by the parties. But there appears to be a hot contest as regards the possession of the first floor flat. The absence of clarity as regards the factum of possession of the first floor flat appears to be one of the main cause of the sprawling litigation between the parties.

12. It is noticed that following a scuffle between the parties, a writ petition being WPA 7902 of 2025 had been filed by the opposite party before this Court wherein it was alleged that the Police Authorities were not implementing the order of injunction passed by the learned Appellate Court. The said writ petition was disposed of by this Court by directing *inter alia* as follows:

"However, prima facie, I do not find that the

police authorities have violated the orders passed by the civil court but if a particular portion of the property is claimed by the petitioners for possessing and enjoying the same, it would be in the interest of justice that the learned civil judge already in seisin of the issue would clarify and specify the same in accordance with law. Any observations made hereinabove is for disposal of the present writ petition and the learned civil court will be at liberty to exercise his discretion in accordance with the exhaustive documents already placed before him.”

(Emphasis supplied)

13. The applications that were filed by the opposite party praying for handing over of keys in respect of the entrance of the suit premises and as well as removal of pad locks from the first floor flat contains *inter alia* the following pleading:-

“5) That the defendant subsequently moved before the hon’ble High Court at Calcutta for police inaction being W.P.A No. 7902 of 2025 and the Hon’ble High Court has opined that in the interest of justice, this Court would clarify and specify the portion which the Defendant and the plaintiffs are possessing in accordance with law.”

14. In such view of the matter this Court is of the considered view that before passing any direction for handing over of duplicate keys in respect of the

first floor flat, it was incumbent upon the learned Trial Court to first come to the conclusion as to who is in possession of the first floor flat and/or as to whether the said flat is an exclusive possession of any of the parties. Such conclusion must be arrived, at least *prima facie* at this stage, before passing any direction for handing over of duplicate keys in respect thereof.

15. In such view of the matter, while the direction for handing over of duplicate keys of the entrance of the suit premises is not interfered with, the direction for handing over duplicate keys in respect of the first floor flat is set aside. The matter is remanded to the learned Trial Court for a fresh decision as regards the application praying for removal of pad lock from the first floor flat.

16. Both the parties shall have at liberty to state their respective cases and produce documents in support of their respective contentions as regards possession of the first floor flat and the Court shall take an informed decision in the matter upon considering all aspects and material before it. The learned Trial Court shall consider and dispose of the said application for breaking open of padlock over the first floor flat independently on its own merits and without being influenced by any observation on merit that may have been made

hereinabove as expeditiously as possible and preferably within a period of two months from the communication of this order.

17. With the above observations, CO. 1188 of 2026 stands disposed of. There shall be no order as to costs.

18. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)