D/L 2
07.10.2026
Ct. No. 2
Mujahid

CO 3500 of 2026

Akshay Vinimay Private Limited & Ors.
Vs.
Umesh Kumar Srimal & Ors.

(Via Video Conference)

Mr. Aniruddha Chatterjee, Sr. Adv.
Mr. Ishaan Saha
Mr. Styam Bhimsaria
Mr. Chunky Agarwal
Mr. Akshay Kr. Jain Sukani
...for the petitioners

Mr. S. Chakraborty
Mr. Varun Kothari
Mr. B.N. Joshi
Mr. Srijit Pal
Ms. Priyanka Garain
...for the opposite parties

1. Present petition has been filed challenging the order dated 11th September, 2026 passed by the learned Additional District Judge, Fast Track 4th Court, Alipore, South 24 Parganas in Misc. Appeal No. 29 of 2026.

2. The petitioners had challenged the order of the learned 3rd Additional Civil Judge (Jr. Division), Alipore in Title Suit No. 21 of 2026 dated 7th January, 2026 vide which the learned trial court had allowed the ad interim injunction in favour of the opposite parties/plaintiffs in Title Suit No. 21 of 2026.

3. Mr. Aniruddha Chatterjeee, learned senior counsel for the petitioners submits that the present case is a clear example of the misuse and abuse of the process of the court. Learned senior counsel

submits that opposite parties/plaintiffs had earlier filed the Title Suit No. 20 of 2026 before the learned Civil Judge (Sr. Division), 9th Court, Alipore against the petitioners relating to the same subject matter. Learned senior counsel submits that in this title suit, the learned trial court did not grant any ad interim injunction. Learned senior counsel submits that thereafter the opposite parties/plaintiffs filed fresh Title Suit No. 21 of 2026 dated 7th January, 2026 before the learned 3rd Additional Civil Judge (Jr. Division), Alipore without disclosing about the filing and pending of the earlier Title Suit No. 20 of 2026 on the self-same cause of action. Learned senior counsel submits that the opposite parties/plaintiffs are guilty of suppression of facts. Learned senior counsel submits that the opposite parties/plaintiffs was successful in playing fraud upon the court and wrongfully got an ad interim injunction order on 7th January, 2026.

4. Learned senior counsel submits that thereafter on 8th January, 2026, the opposite parties/plaintiffs withdrew the Title Suit No. 20 of 2026, stating that the matter has been amicably settled out of the court. Learned senior counsel submits that the learned Civil Judge (Jr. Division) allowed the withdrawal of the suit without any liberty to file a fresh suit. Learned senior counsel submitted

that this issue was raised by the learned Additional District Judge in the appeal proceedings, but the appellate court did not take into account and wrongfully dismissed the appeal.

5. Mr. Chakraborty, learned counsel for the opposite parties/plaintiffs has vehemently refuted all the averments and submits that the petitioners have no right, title and interest over the pump house on the terrace. Learned counsel would take this court to the title documents to show that the petitioners have no legal right, title and interest. Learned counsel would further submit that the learned trial court and the appellate court have rightly granted the stay ad interim injunction in favour of the opposite parties/plaintiffs. Learned counsel further submits that as far as the issue of suppression is concerned that could have been taken by the petitioners/defendants before the learned trial court. Learned counsel also submits that such issues cannot be raised before this court.

6. The Court has considered the submissions. At the outset, it is pertinent to mention here that the relief of injunction is a discretionary and equitable relief which can only been granted to the parties who come to the court with clean hands. It is first and foremost bounden duty of the litigant invoking the jurisdiction of the court to maintain purity of the

proceedings. Any kind of suppression or clever drafting would disentitle the parties to get any equitable relief from the court. In the present case, on the face of it, the opposite parties/plaintiffs filed a Title Suit No. 20 of 2026 before the learned Civil Judge (Sr. Division), 9th Court, Alipore in which the opposite parties/plaintiffs did not get any relief of ad interim injunction. Immediately thereafter the fresh Title Suit No. 21 of 2026 was filed before the learned 3rd Additional Civil Judge (Jr. Division), Alipore. It is not disputed that the parties in both the cases are same. The subject matter is also same. In the second suit, there is a slight one relief (e) was added and the valuation of the suit for the purpose of court fee and jurisdiction was changed so as to bring within the jurisdiction of the learned Civil Judge (Jr. Division). It is also a matter of record that the opposite parties/plaintiffs made statement before the court while withdrawing Title Suit No.20 of 2026 that there is an amicable settlement between the parties out of the curt. This statement has been disputed by the learned senior counsel for the petitioners. Prima facie, it does not seem to be correct as the parties are litigating before this court.

7. The jurisdiction of the court under Article 227 is a supervisory jurisdiction. The court under this jurisdiction as a bounden duty to ensure that the

proceedings before the subordinate courts are maintained and proceeded with in accordance with law. In case there is even an iota of doubt over the bona fide of the parties is between Court and within its right to immediately interfere into the same. This court cannot allow any illegality to be perpetuating even for a minute. The facts in this case are indicating the suppression of material facts. The court has no doubt in its mind that this issue of suppression has to be decided first. Thus, in order to maintain the balance and with an objective to maintain the purity of the proceedings. The court relegates the matter back to the learned trial court with keeping all the contentions of both the parties open. Since there is an allegation of suppression of material facts, which seems to be prima facie there on the record, the order dated 7th January, 2026 in Title Suit No. 21 of 2026 and the order dated 11th September, 2026 in Misc. Appeal No. 29 of 2026 are hereby set aside. Before parting with this Court would also call upon the learned Courts below to make a serious endeavor to decide the main injunction application at the earliest and avoid passing detailed orders discussing merits, while granting or refusing the ad interim injunction. Such detailed discussions at the stage of ad interim,

actually preempt the orders on merit at the time of deciding the injunction applications.

8. In view of the discussions made hereinabove, the present petition is disposed of with direction to the learned trial court to dispose of the injunction application in Title Suit No.21 of 2026 preferably within two weeks after giving the parties an opportunity of being heard in accordance with law. All the contentions are left open. Learned trial court shall decide the injunction application independently without being influenced by any observation made by this court.

9. It is also pertinent to mention here that this court has not gone into the merits of the case and no expression made herein shall tantamount to be an expression on the merits of the case.

10. Accordingly, the present petition stands disposed of.

11. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

12. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Dinesh Kumar Sharma, J.)