

28.01.2026
SL No.10
Court No.6
(gc)

CO 4429 of 2025

**Raakesh Rathore
Vs.
Vardhman Sethia**

Mr. Amal Krishna Saha,
Mr. Biplab Ranjan Bose,
Mr. Souvik Sarkar

.....for the Petitioner.

Mr. Ayan Banerjee,
Ms. Debdatta Manna

...for the Opposite Party.

1. The petitioner is aggrieved by an order dated April 12, 2024 passed by the learned Judge, Fast Track, 2nd Court at Howrah in Misc. Appeal No.143 of 2023. The learned Appeal Court passed an order of injunction, restraining the respondent/petitioner from changing the nature and character of "A"-Schedule property and from creating any third party interest over the suit property in any manner whatsoever. The Misc. Case was filed by the opposite party, being aggrieved by an order of rejection of the ad-interim prayer for injunction by the trial Court. The said order of the appeal court has been extended from time to time. The learned Court observed that the opposite party had made out a, prima facie, case of title over the property and the balance of convenience and inconvenience was in his favour.

2. Mr. Saha, learned Advocate for the petitioner submits that the learned Judge failed to take into consideration that the petitioner had advanced Rs.1 crore to the opposite party as a part consideration for the sale of the concerned property and had also paid a sum of Rs.11 lakhs at an earlier stage when there was a development agreement between the parties. If the learned Judge was inclined to pass an order of injunction, the Judge should have also considered the question of asking the plaintiff to secure the money received from the petitioner. It is further submitted by Mr. Saha that the order is in conflict with the facts pleaded in the plaint. The plaintiff did not admit that the petitioner was in possession. If the petitioner was not in possession, the order of injunction becomes meaningless.
3. Mr. Banerjee, learned Advocate for the opposite party/plaintiff submits that there is a subsisting order of injunction over the property, passed in another suit between the opposite party and a third party. The same was a suit for specific performance of contract. Thus, in any event, the petitioner cannot utilize the property for any purpose at all. So, the question of the petitioner being aggrieved by the order does not arise.
4. Mr. Banerjee further submits that the order of injunction may be maintained for the time being as the fate of application for injunction in the other suit is yet

to be decided. The injunction which was granted by the learned Appeal Court should not be dependent on the consequence of the other suit. According to Mr. Banerjee, there are allegations of forgery, wrongful representation or misrepresentation. The petitioner had fraudulently converted an agreement for sale to a deed of conveyance and such issue is triable in the suit. Under such circumstances, if the property is not protected by the Court, the suit property will be destroyed, wasted and alienated. The situation will become irreversible by the time the suit is decided.

5. Mr. Saha vehemently opposes the contentions of Mr. Banerjee and submits that balance of convenience and inconvenience should have been considered by the court. The admitted fact is that, Rs.1 crore was paid by the petitioner towards consideration money for the sale of the property. This fact should have weighed heavily on the Court and the Court should have balanced the order.
6. I accept the contention of Mr. Saha to such extent. There is an averment in the application filed before the Appeal Court in the Misc. Appeal with regard to the receipt of Rs.1 crore.
7. Under such circumstances, this Court is of the view that the order impugned before this Court should be modified to the extent that the status quo of the

property shall be maintained till March 31, 2026 and the learned Trial Judge shall dispose of the injunction application. While disposing of the injunction application, the prima facie case, balance of convenience and inconvenience and irreparable loss and injury shall be considered by the learned Trial Judge, specially, in view of the fact that the positive case of the petitioner is that a sum of Rs.1 crore had been accepted by the plaintiff/opposite party and such factum is available from the averments made before the learned Appeal Court.

8. The order impugned is, accordingly, modified.
9. Misc. Appeal No.143 of 2023 is disposed of accordingly.
10. Parties are relegated before the learned Trial Judge and the learned Trial Judge is directed to dispose of the injunction application within the time specified by this Court, independently.
11. Copy of the plaint and the injunction application shall be served upon the learned Advocate-on-record for the petitioner within one week.
12. Accordingly, the revisional application is disposed of.
13. There shall be no order as to costs.

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

(Shampa Sarkar, J.)