

16.04.2026
Ct. No.04
Sl. No. 09
(NMD)

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH, JALPAIGURI
CIVIL REVISIONAL JURISDICTION
(APPELLATE SIDE)**

**C.O. 23 of 2026
With
CAN 1 of 2026**

Khalilur Rahaman & Ors.
VS.
Serajul Md & Anr.

Mr. Saumyajyoti Dutta,
Mr. Anurag Sharma

... for the Petitioners

Mr. Bikash Singha,
Mr. Bibek Ray

...for the Opposite Parties

(In Court:-)

1. This application is filed under Article 227 of the Constitution of India challenging the impugned order dated 31.01.2026 passed by the learned Trial Court.
2. Heard learned Advocate for both the parties.
3. A suit was instituted before the learned Trial Court by the plaintiff, inter alia, seeking a decree for partition and permanent injunction in respect of the suit property. In the said suit, the plaintiffs also took out an application for temporary injunction praying for protection of the suit property during the pendency of the proceedings. Upon service of notice, the defendants entered appearance and contested the said application by filing their written objections.
4. After hearing the learned Advocates for the respective parties and upon consideration of the materials on

record, the learned Trial Court was pleased to dispose of the application for injunction by directing the parties to maintain status quo with regard to the nature, character, and possession of the suit property.

5. Subsequently, the plaintiff filed an application under Section 151 of the Code of Civil Procedure, invoking the inherent powers of the Court, with a prayer for effective implementation of the order of injunction, including a direction upon the concerned police authorities to render necessary assistance. The learned Trial Court, by the impugned order dated 31.01.2026, allowed the said application and, inter alia, directed that all parties to the suit shall strictly adhere to and comply with the order of injunction. The Court further observed that none of the parties shall be permitted to alter or change the nature, character, or possession of the suit property, and further incorporated directions restraining alliteration and change of ownership in respect of the suit land.
6. Assailing the said order, it has been contended by the learned Advocate for the petitioner that the original order of injunction dated 02.01.2026 was limited in scope, whereby the learned Trial Court had only directed the plaintiff and the defendant nos. 5, 7, and 8 to maintain status quo in respect of the nature, character, and possession of the suit property. It is urged that the said order did not contain any express

prohibition against alliteration of the property or any restraint relating to ownership.

7. It is further contended that while disposing of the application under Section 151 of the Code of Civil Procedure, the learned Trial Court travelled beyond the scope and ambit of the original injunction order by incorporating additional restrictions, namely, restraining the parties from effecting alliteration and from changing the ownership of the suit property. According to the petitioner, such directions amount to a substantive modification or enlargement of the original order of injunction, this could not have been done in the guise of exercising inherent powers for implementation.
8. The learned Advocate for the petitioner, therefore, submits that in the absence of any such direction in the original order dated 02.01.2026, the learned Trial Court acted in excess of its jurisdiction in introducing new restrictions relating to alliteration and ownership while disposing of the application under Section 151 of the Code of Civil Procedure, which is impermissible in law.
9. The learned Advocate appearing on behalf of the opposite parties/plaintiffs has, with fairness, conceded that the impugned portion of the order namely, the direction restraining alliteration of the suit property and change of ownership thereof did not form part of

the original order of injunction dated 02.01.2026, whereby the learned Trial Court had directed the parties to maintain status quo in respect of the nature, character, and possession of the suit property.

10. Upon consideration of the submissions advanced on behalf of the respective parties, and upon perusal of the impugned order dated 31.01.2026, this Court finds that the original order of injunction dated 02.01.2026 was confined to a direction upon the parties to maintain status quo with regard to the nature, character, and possession of the suit property. The said order did not contain any stipulation restraining the parties from effecting alliteration of the property or from dealing with ownership rights.

11. However, while disposing of the application under Section 151 of the Code of Civil Procedure, the learned Trial Court proceeded to incorporate additional directions restraining the parties from making any alliteration to the suit property and from effecting any change in ownership thereof. Such directions, being substantive in nature, travel beyond the scope and ambit of the original order of injunction and cannot be sustained as a mere measure for implementation of the earlier order.

12. It is well settled that the inherent powers under Section 151 of the Code of Civil Procedure cannot be invoked to enlarge, vary, or materially alter the

substantive terms of an order already passed. In the absence of any such direction in the original order dated 02.01.2026, the learned Trial Court exceeded its jurisdiction in introducing fresh restrictions relating to alliteration and ownership of the suit property.

13. Accordingly, the portion of the impugned order whereby the learned Trial Court directed the parties to refrain from making any alliteration and from effecting any change of ownership in respect of the suit property cannot be sustained in law and is liable to be set aside.

14. It is made clear that such directions, having not been contained in the original order of injunction dated 02.01.2026, whereby the learned Trial Court had confined the relief to maintenance of status quo in respect of the nature, character, and possession of the suit property, could not have been introduced subsequently while disposing of the application under Section 151 of the Code of Civil Procedure. Accordingly, the said additional restraints are held to be unsustainable in law and are hereby set aside to the extent indicated above.

15. In view of the discussions made hereinabove and for the reasons recorded, the impugned order dated 31.01.2026 stands modified to the extent that the directions restraining the parties from making any alliteration in respect of the suit property and from

effecting any change in its ownership shall stand deleted therefrom.

16. The instant revisional application is, thus, **allowed in part** to the extent indicated hereinabove.

17. There shall be no order as to costs.

18. The interim order, if any, passed by this Court stands vacated.

19. Consequently any application if any stands disposed of.

20. Let a copy of this order be sent down to the Trial court immediately.

(Prasenjit Biswas, J.)