

19.05.2026

Ct. no.7.
Sl. No.17

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IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Civil Revisional Jurisdiction
Appellate Side

C.O. 35 of 2026

Mahammad Aalimuddin @ Alimaddin Md. & Ors.
Vs.
Rajesh Kumar Agarwal & Ors.

Mr. Tapash Kumar Bhattacharya,
Mr. Bikash Singha,
Mr. Sukanta Sarkar

... for the petitioners.

Ms. Supriya Singh,
Ms. Susmita Ghosh

....for the opposite parties.

1. In a suit for declaration and permanent injunction, the plaintiffs have categorically stated in paragraph 5 thereof to have been possessing, occupying and enjoying the suit land. On the basis of such statements, the plaintiffs filed an application under Order 39 Rule 1 & 2 read with Section 151 of the Code of Civil Procedure, 1908 (in short, CPC).

2. The Trial Court initially granted an order of injunction. The said application was contested by the defendants. After contested hearing, the ad interim order of injunction was vacated and the application made by the plaintiffs for injunction was dismissed.

3. The plaintiffs preferred a miscellaneous appeal against the said judgment and order dated 3rd December, 2025. The First Appellate Court has set aside the said order and reinstated the injunction.

4. The defendants, on being aggrieved by the judgment and order of the First Appellate Court dated 13th February, 2026 has filed this revisional application.

5. The main contention of the petitioners is that the Trial Court had passed an order without defining the *status quo* which is contrary to the view expressed by the Hon'ble Supreme Court. The petitioners further say that the First Appellate Court has also not defined the *status quo*, but has passed an order reinstating the order of injunction.

6. The petitioners have relied upon the judgments reported in (2019) 4 CAL LT 405 (Nemai Chandra Mahalder & Ors. vs. Dilip Ram & Ors.), (2016) 2 CHN 421 (Sk. Khursed & Ors. vs. Sk. Mantajuddin & Ors.) and an unreported judgment dated 27th June, 2023 passed in C.O. 1753 of 2019 (M/s. Messenger Courier & Cargo Pvt. Ltd. vs. UMA Forzing Works (P) Ltd. & Ors.)

7. After hearing the parties and considering the materials on record, it is found that the First Appellate Court did not pass an undefined order of

status quo. The order is “there will be an order of *status quo* so far the nature, character and possession over the suit property are concerned as on this date as to be followed by the parties to the suit/appellants herein”.

8. The judgments relied upon by the petitioners do not throw much light in respect of a suit for declaration where the plaintiffs have categorically stated to be in possession, occupation and enjoyment of the suit property.

9. The defendants, if interested to deny such possession, they are required to show without any doubt that the defendants are in possession of the suit property. This can be done only at the trial of the suit. At the interlocutory stage, on the basis of the *prima facie* view, an order is passed. The materials available before the First Appellate Court has been considered, discussed and then only the order impugned has been passed.

10. The judgment in *Nemai Chandra Mahalder (supra)* and *Sk. Mantajuddin (supra)* were in connection with partition suits where the situation is completely different as the record of rights may show the land to be recorded in the name of any of the co-owners but the same is in joint possession which is used and enjoyed jointly by the members of the family. The judgment in *UMA Forzing Works*

(P) Ltd. (supra) also does not apply to the facts of the instant case.

11. The further contention of the petitioners that they are in possession of the suit property and the plaintiffs by taking advantage of the order of *status quo* has started disturbing the possession of the defendants/petitioners is also not convincing. The petitioners have not asserted such right either by filing an independent petition or filing separate proceedings which would have been the normal course, if such thing had happened. The possession as claimed by the petitioners is also not borne out from any record.

12. In the aforesaid facts and facts and circumstances, I do not find any infirmity or illegality in the order impugned.

13. The revisional application, therefor, fails and the same is dismissed, however, without any order as to costs.

14. The Trial Court is directed to dispose of the suit as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

15. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking

(Arindam Mukherjee, J.)