

10.04.2026
Sl. 7
Subadip
Ct.No.-4

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

**CO 45 of 2026
With
CAN 1of 2026**

**MJ Grain Products Pvt. Ltd.
Vs.
Mamata Food Product & Anr.**

Mr. Subham Ghosh,
Mr. Mayank Roy.

...for the petitioner

1. Heard learned Advocates for the petitioner.
2. None appears on behalf of the opposite parties.
3. The present petition, purportedly invoking the supervisory jurisdiction of this Hon'ble Court under Article 227 of the Constitution of India, is ex-facie not maintainable either in law or on facts.
4. The jurisdiction under Article 227 is one of superintendence, to be exercised sparingly and only in appropriate cases where there is patent lack of jurisdiction, manifest perversity, or gross failure of justice in an order passed by a subordinate Court. It is well settled that such jurisdiction cannot be invoked as a substitute for ordinary remedies, nor can it be exercised

to regulate the day-to-day functioning or administrative exigencies of subordinate Courts.

5. In the present case, the grievance of the petitioner does not arise from any judicial finding passed by the learned District Judge. Rather, the sole ground urged is that the learned District Judge was unable to take up the petitioner's application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, filed in connection with Title Suit No. 1 of 2026, on account of being preoccupied with administrative work. Such a ground, by no stretch of imagination, can be said to give rise to a cause of action warranting interference under Article 227.

6. It is trite law that non-listing, adjournment, or inability of a Court to take up a matter due to administrative constraints or heavy docket does not amount to a judicial determination, nor does it constitute an error of jurisdiction or illegality amenable to correction under Article 227. The supervisory jurisdiction of this Hon'ble Court is directed against judicial orders and proceedings, and not against the internal administrative functioning or scheduling difficulties of the subordinate judiciary.

7. Furthermore, the petitioner had efficacious and appropriate remedies available before the learned Court below itself. It was always open to the petitioner to mention the matter for urgent hearing, seek circulation, or pray for appropriate interim protection before the

same Court. In appropriate cases, the petitioner could also have approached before the learned District Judge for early listing. Without exhausting such remedies, the petitioner has prematurely invoked the extraordinary jurisdiction of this Hon'ble Court.

8. Entertaining such petitions would set an undesirable precedent, effectively converting the High Court into a forum for monitoring the roster, workload, and administrative functioning of subordinate Courts, which is neither the object nor the scope of Article 227. The same would also result in unwarranted interference with the independence and functioning of the subordinate judiciary.

9. It is also pertinent to note that no allegation of mala fides, deliberate refusal, or arbitrary exercise of judicial power has been made against the learned District Judge. The inability to take up the matter owing to administrative duties is a bona fide and unavoidable circumstance, and cannot be construed as a failure of justice or denial of judicial remedy.

10. In view of the discussions made hereinabove, it is manifest that the present petition is wholly misconceived, premature, and devoid of any merit. The petitioner has failed to demonstrate the existence of any jurisdictional error, illegality, material irregularity, or perversity in any judicial order passed by the learned Court below so as to warrant interference in exercise of the supervisory jurisdiction of this Court. The petition, in

effect, seeks to invoke the jurisdiction of this Court on grounds which do not fall within the permissible contours of judicial scrutiny under Article 227 of the Constitution of India.

11. It further appears from the materials placed on record, particularly from the copy of the order handed over by the learned Advocate for the petitioner, that the learned District Judge could not take up the application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure on 06.04.2026 due to the pendency of the present revisional application and the order of stay granted by this Court.

12. In such view of the matter, while this Court is not inclined to entertain the present petition on merits, it deems it appropriate to request the learned District Judge to take up and dispose of the application filed in connection with Title Suit No. 1 of 2026 as expeditiously as possible, strictly in accordance with law, and upon affording reasonable opportunity of hearing to all the parties concerned.

13. Accordingly, in view of the facts and circumstances of the case and the submissions advanced on behalf of the petitioner, the present revisional application being C.O. 45 of 2026 stands dismissed.

14. Let the interim order passed by the previous Bench of this court be extended for a further period of two weeks from this date or till disposal of the application by the learned Trial Court whichever is earlier.

15. The learned District Judge shall proceed to consider and dispose of the application strictly in accordance with law, on its own merits and upon due appreciation of the materials available on record. The learned Trial Court is requested to exercise its independent judicial discretion, uninfluenced by any observations, findings, or directions contained in the present order, which are confined solely to the adjudication of the present case.

16. Let a copy of this order be sent to the learned Trial Court immediately.

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

(Prasenjit Biswas, J.)