

**Title Suit (Commercial) 02/2026**

CNR No.WBBD17-000003-2026

Present : **Sri Arindam Chattopadhyay**  
(JO Code : WB00859)

Order No.03  
10.02.2026

Today has been fixed for considering the prayer of the plaintiffs for granting an order of ad-interim injunction in terms of their petition under Order-XXXIX, Rules- 1 & 2 read with section-151 of CPC.

The Ld. Advocate on behalf the plaintiffs is found present in virtual mode.

At the very inception he submitted that the plaintiffs may be granted the exemption under section 12A of Commercial Courts Act (herein after referred to as the said Act) as the matter is extremely urgent.

Accordingly, firstly the petition under section 12A of the said Act is taken up for consideration.

The Ld. Advocate of the plaintiffs submitted that the defendants are threatening to take possession of the suit property by dispossessing the plaintiffs therefrom. Already the plaintiffs have incurred huge amount of money for developing the suit property and if they are dispossessed at this stage, it shall result in huge loss for the plaintiffs. In such circumstances, he prayed that such exemption may be granted.

According to section-12A of the said Act a suit, which does not contemplate any urgent interim relief under the Act, shall not be instituted unless the plaintiff exhaust the remedy of pre-institution of mediation. Thus, the aim and object of section 12A is to ensure that before a commercial dispute is filed before the court, the alternative means of resolution are adopted and only genuine cases come before the court.

The Hon'ble Supreme Court of India in its judgment passed in **M/s Dhanbad Fuels Pvt. Ltd Vs. Union of India and Anr.** has laid down the proposition of law related to section 12A of Commercial Courts Act. In paragraph 60 of the said judgment, the Hon'ble Apex Court has summarized the law in this regard. It says that a suit which contemplates an urgent interim relief may be filed without first resorting to mediation. Leave of court is not required before filing a suit without complying with section 12A. The test for "urgent interim relief" is to be determined by examining the nature and subject matter of the suit and the cause of action from the stand point of the plaintiff. However, the courts must be wary of the fact that the urgent interim relief must not be merely an unfounded excuse by the plaintiff to bypass the mandatory requirement of section 12A of the said Act.

Now let us apply the above principle of law with regard to the pleadings made in the plaint. In paragraph 49 of the plaint, the plaintiffs have laid down the reasons/ causes for the exemption from the requirement of pre-institution mediation. According to them the action of the defendants intending to dispossess them from the suit property by taking coercive measure constrained the plaintiffs to seek urgent interim protection from this court. In support of their contention they have filed various documents out of which the letter dated 17.11.2025 issued by defendant No.1 ie, Katwa Municipality shows that the said defendant has directed the plaintiffs to show-cause as to why the lease agreement shall not be terminated. Thereafter by letter dated 22.12.2025 the defendant has informed the plaintiffs that they shall take possession of the suit property on 01.01.2026 by ignoring all the issues raised by the plaintiffs in their various communications made earlier.

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The pleading and the documents annexed with the same prima facie shows that the plaintiffs have made huge amount of investment in the suit property. The agreement between the parties also shows that there is a clause of renewal of the lease deed. However, the said renewal can be made by the lessor on certain terms and conditions if the Lessee have not violated any terms and conditions of the earlier agreement.

In this case the plaintiffs have claimed that they have not infringed or violated any of the clauses of the agreement and accordingly, the period of lease should be extended. On the other hand the contention of the defendants, as it appears from the communications made by them in favour of the plaintiffs, is that the plaintiffs have violated the terms and condition of lease agreement by constructing the building/ structure on the suit property without obtaining approved plain from the office of the defendants.

The plaintiffs have filed photocopy of a building plan approved by Goai Gram Panchayet dated 06.09.2010. According to the plaintiffs, the suit property falls within the jurisdiction of the said Gram Panchayet and accordingly, the said panchayet is the competent authority for granting sanction of any construction plan in the suit property.

Now the contention of which party is correct can only be done at the time of trial of the suit but if in the mean time the defendants takes any coercive measures against the plaintiffs it shall make this suit infructuous.

Thus, this court is satisfied that the plaintiffs has been able to make out a case that this suit falls within the category of a suit which contemplates an urgent interim relief and accordingly, the plaintiffs are exempted from the requirement of pre-institution mediation. Accordingly, their petition u/s 12A of the Commercial Courts Act is allowed.

Now the petition under order XXXIX, Rule-1 & 2 CPC is taken up for hearing for considering the prayer of the plaintiff to grant an ad-interim injunction.

Heard the Ld. Advocate of the plaintiffs.

Perused the petition under consideration, the plaint and the documents filed by the plaintiffs.

Considered.

The case of the plaintiffs in a nut shell is that they entered into an agreement with the defendants with regard to the suit property and they have constructed a truck terminal over the same after obtaining sanction plan from the local Panchayet authority. According to the plaintiffs although the work of construction completed in the year 2012 the same could be made operational in the year 2022 after a MOU was executed between plaintiffs and the defendants on 20.07.2022. In the said MOU the terms and conditions were laid down and the plaintiffs have been complying with all the said terms and conditions.

Subsequently, other complications and disputes cropped up between the parties and both parties exchanged various letters between them making their respective claims. Finally, the defendants by their letter dated 22.12.2025 directed the plaintiffs to vacate the suit property as according to them the plaintiffs have violated clause-2(iv) of the lease agreement.

After getting such eviction notice, the plaintiffs filed a writ petition before the Hon'ble High Court, Calcutta being WPA 30009 of 2025 and the Hon'ble Court was pleased to pass an interim order protecting the possession of the plaintiffs over the suit property.

**Continued....Order No.3/ dated 10.02.2026**

The defendants herein challenged the said order of the Hon'ble Single Judge and preferred an appeal being MAT No.45/2026.

During the course of hearing, the plaintiffs filed copy of an order passed in WPA 30009 of 2025 today from which it can be seen that they have withdrawn the said Writ petition. Accordingly, at present there is no pending litigation between the parties over the selfsame subject matter before the Hon'ble High Court, Calcutta.

The main objection of the defendants for non-renewal of the lease agreement between the parties is that the plaintiffs have made construction without obtaining proper and valid sanction. Against the said contention of the defendants the plaintiffs have filed copy of a sanction plan issued by the panchayet authority. Thus, prima facie the plaintiffs have been able to counter the said non-renewal ground of the defendants. More so, the documents filed and the affidavit submitted by plaintiff No.2 suggest that they have not been defaulter in payment of leasehold rent.

Moreover, from the documents filed by the plaintiffs it prima facie appears that although a huge amount of money has been invested by them in the suit property but for a considerable period of the lease, the plaintiffs could not enjoy the fruits of their investment resulting in loss of their business.

Further, from the letters of the defendants it is clear that the plaintiffs are in possession of suit property. The settled principle of law is that no one can be dispossessed from any property without due process of law. Thus, if the plaintiffs are dispossessed from the suit property forcefully, it shall definitely cause prejudice to their right and shall also cause irreparable loss and injury to them.

Moreover, as this case has been filed praying for relief u/s 38 of the Specific Relief Act and the plaintiffs have claimed that the provision of Sec.38(3)(b)(c) of Specific Relief Act is applicable for their relief, the provision of section-407 of West Bengal Municipal Act is not applicable in this case.

In such circumstances, this court is satisfied that the plaintiffs have been able to make out a strong prima facie case in their favour and if they are dispossessed by force from the suit property which shall cause irreparable loss and injury affecting their interest. Thus, the balance of convenience and inconvenience in granting an order of ad-interim injunction is in favour of the plaintiffs.

Hence,

it is,

**ORDERED,**

that the defendants are restrained from dispossessing the plaintiffs from the suit property without due process of law and also from creating any third party interest in respect of the suit property till 10.03.2026.

Plaintiffs are directed to comply with the provision of Order-XXXIX, Rule-3(a) & (b) CPC immediately.

Dictated & corrected by me :

Judge, Commercial Court,  
Asansol (I/C)

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Asansol (I/C)