

**Miscellaneous Appeal No. 76 of 2024**  
**(C.N.R. No. WBHG05-001960-2024)**

**Present: Smt. Ratna Roy**  
**(J.O. Code - WB00914)**

**Order No. 10 dated 16.07.2025**

Today is fixed for hearing of the stay petition.

Both sides file hazirah. W.O. is filed by the respondents against the stay petition.

Heard Ld. Advocates for both sides over the stay petition.

Ld. Advocate for the appellants submitted that the appellants are priests of Maa Shitala Mandir which is a public debottar temple. The respondents are no one to create a trust and throw out the appellants from their employment. Ld. Civil Judge (Jr. Divn.), 2<sup>nd</sup> Court, Serampore, without considering the fact that the appellants have suffered substantial loss due to the act of the respondents in throwing them out of their employment and also the fact that the respondents have no power to create a trust in respect of a public debottar property, had rejected the injunction application. Against the rejection of the injunction application the appellants have come in appeal. If the injunction order No. 31 dated 27.09.2024 is not stayed, the appellants will be prejudiced. If required, the appellants will furnish bond for the stay order.

Ld. Advocate for the appellants referred to the decision of the Hon'ble Court cited in 2005 (2) ICC 630 and submitted that the Hon'ble Court has held that when the appeal has been admitted and the lower court's record had been called, it implied stay of the operation of the order and or proceeding in connection with which the appeal has been filed.

Ld. Advocate for the respondents opposed the submission of the Ld. Advocate for the appellants stating that the Trust is a registered Trust. The role of the Trust is to conduct the management of the temple. The appellants are simply land brokers. They acted as priests without any remuneration. The appellants had misappropriated fund of Rs.50000/- and for that reason they have been terminated by the Trust who is to decide in the regard as who can be employed as priests and be terminated. Since the appellants worked without any remuneration, their termination will not be any loss and injurious for them. The appellants have been terminated after several meetings and resolution passed by the Trust. Already a criminal case is proceeding against the appellants. He thus prayed for rejection of the stay application.

Considered submission of both sides. Perused the materials on record.

I find that the appellants had preferred this appeal against order No. 31 dated 27.09.2024 vide which the Ld. Civil Judge (Jr. Divn.), 2<sup>nd</sup> Court, Serampore, Hooghly had rejected the injunction petition filed by the appellants in T.S. No. 295/2022. The submissions as made by Ld. Advocate for the respondents are all matters that can be decided at trial. When the fact remains that the appeal has been admitted and L.C.R. has been called for, if the order No. 31 dated 27.09.2024 is not stayed, the very reason of

filing the appeal will become infructuous.

Hence, the stay petition is allowed. However, as there is an allegation of misappropriation of funds against the appellants, the order No. 31 dated 27.09.2024 will remain stayed only upon furnishing of security bond of Rs.1,00,000/- (rupees one lakh).

Thus, the stay application is disposed of.

To **30.07.2025** for furnishing security bond.

The order No. 31 dated 27.09.2024 passed by the Ld. Civil Judge (Jr. Divn.), 2<sup>nd</sup> Court, Serampore, Hooghly in T.S. No. 295/2022, is stayed till 30.07.2025.

Dictated & corrected by me.

Sd/- (Smt. Ratna Roy)

A.S.J.

Sd/- (Smt. Ratna Roy)

Additional Sessions Judge,  
1<sup>st</sup> Court, Serampore