

Order No. 03 dt. 20.6.26

Record is put up today on the basis of an allowed put up petition filed along with a petition for hearing the stay petition kept in the record on this day due to the exigency involved in the matter which petition is allowed.

After the record is put up, Id Advocate for the revisionist moved the stay petition and submitted the following contentions :

The case property being L.R. Dag No. 316 & 317 in Mouza Sandhipur under Chanditala P.S. is an undivided property and the present revisionists Ibrahim Ali Mallick & Ors. are the joint shareholders of the same along with the opposite party (hereinafter referred to as O.P.) No. 1 & 2 Idrish Ali Mallick & Anr. who are also its shareholders with other shareholders. As partition has not taken place, the revisionists and the O.P. were residing in the respective portions of the case property peacefully. On 19.9.2024 the O.P.'s along with some other shareholders filed a partition suit against the revisionists with respect to the said property before the court of Id Civil Judge (Sr. Divn.) Serampore. Subsequently the said plaintiffs also filed an ad-interim injunction petition before the Id trial court which allowed the same and directed both the parties therein to maintain status quo over the said property which order has been extended from time to time on the dates fixed in the suit and presently stands extended till 05.8.2026. Thereafter the O.P.'s tried to construct their building without obtaining any permission from the Id trial court at which the revisionists objected but the O.P.'s did not pay heed to the same after which the revisionist lodged a complaint before Chanditala P.S. which recorded G.D.E. No. 243 of 2026 dated 05.6.2026 and police stopped the said construction considering the status quo order prevalent upon the suit property. Subsequently the O.P.'s filed a false case before the Id Executive Magistrate Serampore (hereinafter referred to as E.M.) on 05.6.2026 under sec. 163(2) of B.N.S.S. which was registered as Misc Case No. 465 of 2026 in which the O.P.'s filed a false affidavit that there is no civil case pending with respect to the said property. The Id Executive Magistrate without hearing the revisionist and without considering that a status quo injunction order was already in force upon the case property issued an order on the same date in which it directed O.C. Chanditala P.S. to restrain the revisionist in case of any possibility of breach of peace.

Ld Advocate for the revisionist submitted that since an ad-interim injunction order was already in force at the suit property thereby ordering status quo upon the suit property, the Id E.M. could not pass any further order thereupon. He argued that by the said order the revisionists are not able to make construction upon their own possessed portion of the suit property but surprisingly the O.P.'s who have procured the said order are able to make construction upon their possessed portion of the same which if allowed to continue by virtue of the impugned order would frustrate the injunction order issued by the Id civil court. He prayed for staying the impugned order of the Id E.M. after drawing the attention of this court to the filed documents in this regard.

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Criminal Revision – 34/2026

J.O. Code No. WB01302.

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Heard. Perused the filed documents. Considered.

It is apparent from the filed copy of the ad-interim injunction petition that a petition under Order 39 Rule 1 & 2 of the CPC has been filed by the present O.P.'s against the revisionists before the civil court of Id Civil Judge (Sr. Divn.) Serampore in Title Suit No. 244 of 2024. It is evident from the filed certified copy of the order sheets of the said court that the Id civil court has by its Order No. 02 dated 21.9.2024 allowed the above ad-interim injunction prayer of the O.P.'s and has ordered therein both the parties to maintain status quo till the next date as regards their possession with respect to the case property which injunction order has been extended till 05.8.2026 by the Id civil court by its order dated 20.4.2026. It is apparent from the filed copy of the G.D.E. of Chanditala P.S. that G.D.E. No. 243 of 2026 has been lodged at the said P.S. by the revisionist at the instance of the revisionists. Going by the contention of the revisionists, it is surprising that the concerned police are restraining the revisionists from making any construction upon their possessed portion while they are allegedly allowing the O.P.'s to do so when there is a status quo injunction order already in force with respect to the suit property. The above materials show that the revisionists have good grounds for their success in this revision which case has already been admitted by the filing court. The instant motion is already found to be admitted. The impugned order of the Id E.M. of maintaining peace and tranquility by both the sides is not found necessary when similar order of maintaining status quo has already been passed by a civil court with respect to the same case property and if allowed to remain might only add to the confusion between the parties. Hence this court is inclined to stay the said order. Accordingly, the impugned order dated 05.6.2026 passed by the E.M. Serampore in Misc. Case No. 465 of 2026 is now stayed until the disposal of this revision.

Let a copy of this order be sent to E.M. Serampore for his information.

Let a copy of this order be also sent to O.C. Chanditala P.S. for his information and necessary action.

Call for TCR.

Revisionist to file requisites.

Issue requisites when filed.

To date (28.7.26) for appearance and receipt of TCR.

Dictated & Corrected by

Sd/-

Addl. Sessions Judge, 2nd Court
Serampore.

Sd/-

Addl. Sessions Judge, 2nd Court
Serampore.