

In the Court of District Judge, South 24-Parganas at Alipore

Misc. Appeal No. 321 of 2024 (R-321)

CNR No. WBSP01-011889-2024

Present : Sri Dinanath Prasad (WB00639) District Judge-in-charge,
South 24 Parganas at Alipore

Rupa Sanyal Bhattacharjee

... Appellant

Vs.

Biswajit Matilal @ Ors.

... Respondents

Order No. 01, dated 09.09.2024

The instant Misc. Appeal under Order 43 Rule 1(r) read with section 151 of the C.P.C is at the instance of the appellant against the respondents to impeach the order dated 21.08.2024 passed by the Ld. Civil Judge (Jr. Divn.) 3rd Addl. Court at Alipore in Title Suit No. 1416 of 2024.

Court fees paid by the appellant is correct.

Certified copy of the impugned order has been filed.

Register.

Appeal is filed with the period of Limitation. As such, the appeal is admitted.

Requisites not filed by the appellant.

At this stage, the Ld. Advocate for the appellants files an application under Order 39 Rules 1 and 2 read with 151 of Civil Procedure Code and the same is taken up for hearing.

It appears from the record that no caveat has been filed.

Ld. Advocate for the appellant submits that the appellant, as plaintiff,

filed a suit, being Title Suit No. 1416 of 2024, for delivery up and cancellation and perpetual injunction along with an application under Order 39 Rules 1 and 2 read with Section 151 of C.P.C praying for an ad-interim order of injunction and the said prayer was refused by the Ld. Court below. As such, the Ld. Advocate for the appellant filed the instant Misc. Appeal and prays for an order of ad-interim injunction.

Heard the submission of the Ld. Advocate for the appellant.

Perused the application for temporary injunction, which has been supported by an affidavit, and the documents annexed herewith.

Upon perusal of the the materials and documents and after hearing the Ld. Advocate for the appellant, it appears that the appellant is the existing Principal of South Point High School and though there is a show-cause letter issued by the Trustee, but contents of the show-cause is not directly related to the appellant, acting as the Principal, but other related matters. The principal has already replied to the show-cause notice.

A good *prima facie* case is made out by the appellant for getting an order of injunction. The balance of convenience and inconvenience is also in favour of the appellant. If an order of ad-interim injunction is not passed then there will be irreparable loss and injury.

Hence,

it is,

ORDERED

that the prayer for an order of ad-interim injunction is allowed in favour of the appellant till **05.10.2024**.

The respondent no. 1 either through himself and/or his men, agents, servants and assigns are restrained from taking any steps or further steps on the basis of the purported show-cause notice dated July 29th, 2024, till **05.10.2024**.

The appellant is directed to comply with the provisions as enumerated under Order 39 Rule 3(a) and 3(b) of C.P.C.

Issue notice.

Requisites at once.

Fix **05.10.2024** for S/R and A/D.

Dictated & corrected by me,

Sd/- Sri Dinanath Prasad

District Judge, I/c

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