

Order no 06 datef 16.05.2025

Today is fixed for passing order in respect of the petition dated 03.05.2025, filed by the defendants.

Both the parties files their representatives haziras through their Ld. Advocates.

Plaintiffs filed written objection against the afore said petition , copy served .

Ld.Advocate of the defendants submitted before this Court that after getting the ad interim order 29.03.2025 from this Court against the defendants this Court issued show cause notice upon the defendants and directed the plaintiffs to make the necessary compliance under O.39 R3(a) and (b) of CPC and the plaintiff issued notice on 01.07.2025 with envelop and after receiving and opening the closed envelop the defendants realised that only one Advocate letter along with a copy of plaint of this present suit has been sent to the defendants and there was no copy of documents of the plaintiffs and this is a clear non compliance of O.39 R. 3(a) and (b) of CPC and the defendants prayed before this Court to vacate the ad interim order dated 29.03.2025 .

Ld Advocate of the plaintiffs in reply submitted and also stated in their written objection that

the present petition is not maintainable in its present form and prayer and it is not a bonafied petition at all rather this is a fradilant, vexatious and frivolous one . The plaintiffs denied all the allegations of the defendants mentioned in the instant petition and submitted before this Court that after getting the ad interim order on 29.03.2025 the plaintiffs issued notice on 01.04.2025 with envelope and make necessary compliance of statute but now the defendants stated a different story as the notice was issued upon the defendants through speed post and the defendant did not revel or disclose any clear identification of any of the three envelopes , which are sent to them and the defendant intentionally did not make any clear conception about the envelope to vacate the injunction order.

Heard & considered.

On careful perusal of the sace record this Court found that , ad interim order was allowed by this Court on 29.03.2025 and by such order this Court has restrained the defendants to raise any kind of illegal construction over the suit property and also restrained the defendants from cutting down the bamboo trees from the suit property. Now the defendants alleged that the plaintiffs are failed to do the necessary compliance as per the statute and thus the ad interim should be vacated . Now the This Court has to see that the plaintiffs has followed the necessary compliance or not. And the order sheet dated 01.04.2025 reflected that the plaintiffs files an affidavit along with a postal receipt U/O 39, R3(a) & (b) of CPC. In this context the O 39 R 3(a)CPC says that ,

"... to deliver to the opposite party , or to sent to him by registered post , immediately after the order granting the injunction order has been made , a copy of the application for injunction together with -

(i) a copy of the affidavit filed in support of the application ,

(ii) a copy of the plaint,

(iii)copies of documents on which the applicant relies."

Case record says that plaintiff filed the compliance on 01.04.2025 but the defendant denied and on 04.06.2025 at the the of hearing of the instant petition the defendants filed two closed and one open envelopes and one opened envelop which they have received before this Court and all are identical and both the closed envelops were opened by this Court in open Ejlash and it reveals that there are one Advocate letter and one copy of plaint and both the envelop contents the same thing and there was no copy of injunction petition as well as there was no copy of the documents of the plaintiffs. After scrutinizing all the envelops this Court set its opinion that all the envelops are sent

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by the plaintiffs and plaintiffs have intentionally did not comply the statutory mandates, where the provision has given clear direction that after getting the ad interim order the party has to sent such and such documents but plaintiffs did not follow such mandates . Hence . it is

O R D E R E D

that the plaintiffs did not follow the necessary compliance of O 39 R 3(a) & (b) of CPC , thus the ad interim injunction order dated 29.03.2025 stands vacated and there in no ad interim injunction upon the defendants.

The plaintiffs are directed has to served copy of injunction petition, copies of all the documents to the defendants at once .

Next date 04.07.2025 for hearing injunction petition , w/s and w/o by the defedants .

Civil Judge (Jr.Div) Addl. Court, Civil Judge (Jr. Div)
GarhbetaPas

Addl. Court, Garhbeta, Paschim Mdinipur.
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