

01.04.2026
Item No.09 (DL)
Court No.06
AJ.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 953 of 2026

Panji Griha Nirman Pvt. Ltd. & Ors.

-Vs-

Ayan Sadhukhan & Ors.

Mr. Partha Pratim Roy,
Mr. Soumyadeb Sinha,
Mr. Abhismita Goswami.
....for the petitioners.

Mr. Sounak Bhattacharya,
Mr. Sounak Mandal,
Mr. Abhirup Halder,
Mr. Anirban Saha Roy,
Ms. Bipasha Bhattacharyya.
....for the opposite party nos.1 & 2.

1. This revisional application is directed against an order dated February 21, 2026 passed by the learned Civil Judge (Senior Division), 1st Court at Baruipur, 24-Parganas (South) in Title Suit No. 105 of 2026 whereby the parties to the suit have been directed to maintain status quo in respect of the suit property in so far as its nature, character and possession as on the date of passing of the order is concerned as also the order dated February 27, 2026 whereby the petitioner's application for recalling of the said order dated February 21, 2026 has been posted for hearing on April 21, 2026.

2. Mr. Roy, learned Advocate appearing for the petitioners submits that the petitioners had lodged a caveat bearing no. 1897 of 2025 before the learned Trial Court on December 24, 2025.

3. It is submitted that despite such caveat having been lodged, the matter was taken up by the learned Trial Court ex parte on February 21, 2026 and an interim order of status quo was passed without issuing any notice to the petitioners and consequentially without affording any opportunity of hearing to them.

4. He further submits that upon getting knowledge about the order, the petitioners immediately filed an application under Section 151 of the Code of Civil Procedure, 1908 seeking recalling of the order dated February 21, 2026, but despite such application having been filed as early as on February 27, 2026, the same was not taken up for hearing by the learned Trial Court on the said date. It's hearing was postponed to the date on which the application for temporary injunction was made returnable i.e. on April 21, 2026.

5. Mr. Roy asserts that once a litigant lodges a caveat, it becomes incumbent on the Court concerned to issue notice to the caveator prior to passing any order. He then contends

that if it is brought to the notice of the Court that the Court had passed an order without issuing notice to the caveator or that the Court had failed to take due cognizance of caveat lodged before the Court, then such Court would be duty bound to immediately recall such order and there would be no other way out left for the Court. In support of his such contention, he relies on a judgment of the Hon'ble Division Bench of this Court in **Sukumar Roy & Anr. – Vs- Pratul Kumar Roy** reported at **90 CWN 288**.

6. Mr. Bhattacharya, learned Advocate appearing for the opposite party nos.1 and 2 submits that the opposite parties did not have any knowledge of caveat. It is further submitted that if the aspect of lodgment of caveat has not been brought to the notice of the Court by any reason not attributable to the opposite parties, then the opposite parties, who have been granted an interim order upon successfully making out a *prima facie* case before the learned Trial Court, should not also be made to suffer for no fault of theirs. It is submitted that no *mala fide* can be attributed to the opposite parties inasmuch as they were not in the know of the lodgment of caveat.

7. He seeks to distinguish the judgment of the Hon'ble Division Bench of this Court in the case of **Sukumar Roy (supra)** by submitting that it was a case where *mala fide* was found on the part of the plaintiffs in the suit.

8. Mr. Roy, learned Advocate appearing for the petitioners in reply submits that the judgment in the case of **Sukumar Roy (supra)** was also rendered in the context of a mistaken endorsement of the Assistant Registrar of the Court which had misled the Court into believing that there was no caveat lodged.

9. Having heard the learned Advocates appearing for the respective parties and having considered the material-on-record, this Court is of the view that in terms of the judgement of the Hon'ble Division Bench of this Court in the case of **Sukumar Roy (supra)**, it was not open to the learned Trial Court to postpone the hearing of the recalling application filed by the petitioners especially having regard to the authoritative pronouncement of the Hon'ble Division Bench in the case of **Sukumar Roy (supra)** to the effect that *“the only course open to the learned Judge should have been, when such defect was pointed out, to recall the order forthwith and rehear the matter on contest.”*

10. That being so the application for recalling of the order dated February 27, 2026, that has already been filed before the learned Trial Court must be heard forthwith. Accordingly the learned Trial Court is requested to take up the application for recalling (that had been filed before it on February 27, 2026) peremptorily.

11. The petitioners shall be entitled to file an application for putting up of the records and to pray for preponment of the date fixed earlier, upon notice to the learned Advocates appearing for the opposite parties.

12. The learned Trial Court shall take up such application and decide the same in the light of the judgment of the Hon'ble Division Bench in the case of **Sukumar Roy (supra)**.

13. It is noticed that the learned Trial Court has while passing the order of injunction dealt with the aspect of lodgment of caveat and has found that caveat no. 1885 of 2025 had been noted by the Sherestadar on the file of the Court. It appears that there was no note as regards caveat no. 1897 of 2025 that is alleged to have been filed by the petitioners herein.

14. The learned Trial Court has noted that caveat no. 1885 of 2025, note whereof was made by the Sherestadar of the Court

pertained to a different property to which the suit does not relate.

15. In case, the learned Trial Court is satisfied that grounds have been made out for recalling of the order and caveat had indeed been lodged in accordance with law, then the learned Trial Court shall take up the application for injunction and hear the same at least for examining the question of passing ad -interim order in the presence of the defendants to the suit i.e. the petitioners herein immediately.

16. The learned Trial Court shall ensure that the entire exercise is concluded as expeditiously as possible and preferably within a period of ten days from the date of filing of the application for putting up of the records.

17. In case the Court i.e. the Court of the learned Civil Judge (Senior Division), Baruipur, 24-Parganas (South) is vacant, the learned Judge-in-Charge of the said Court shall take up the matter and decide the matters by passing appropriate orders in terms of this order.

18. It is expected that the learned Trial Court shall abide by the request made by this Court so as to ensure that the petitioners do

not have to approach this Court again for the selfsame reason.

19. C.O. 953 of 2026 stands disposed of with the above observations. There shall be no order as to costs.

20. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)