

Court No. 6  
(265719)

**09.09.2025**  
(AD 6)  
(S. Banerjee)

CO 3296 of 2025

Rakhi Debnath  
Vs.  
Snehamoy Pal & Ors.

Mr. Pratip Mukherjee  
Ms. Rima Banerjee  
Mr. Purnankar Biswas

...for the petitioner

Mr. Rajdeep Bhattacharya

...for the opposite parties

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order dated July 31, 2025 passed by the learned District Judge, South 24 Parganas at Alipore in Misc. Appeal No. 245 of 2025.

The petitioner herein filed a suit for declaration of title and for permanent injunction restraining the defendants/opposite parties and their men and agents from obstructing the plaintiff/petitioner from raising construction over the suit property and from disturbing the peaceful possession of the petitioner in respect of the suit property.

The learned trial judge by an order dated June 25, 2025 passed an ad interim order of injunction restraining the defendants/opposite parties from disturbing the possession of the plaintiff/petitioner or

obstructing the plaintiff/petitioner from making any construction over the suit scheduled property for a limited period.

Challenging such order the defendants/opposite parties herein preferred a misc. appeal and the learned judge of the appellate court, by the impugned order, passed an order of stay of operation of the ad interim order of injunction passed by the learned trial judge for a limited period.

Mr. Mukherjee, learned advocate appearing for the petitioner submits that the learned judge of the appellate court without giving any opportunity to the petitioner to contest the said application, passed an ad interim order of stay.

Mr. Bhattacharya, learned advocate appearing for the opposite parties submits that the petitioner do not have any title in respect of a portion of the suit property measuring about 1 cottah 5 chittaks 35 square feet. He further submits that the petitioner is trying to change the nature and character of the suit property and if the petitioner is allowed to make construction, the defendants/opposite parties herein will suffer irreparable loss and injury.

After hearing the learned advocates for the respective parties and considering the materials on

record this court finds that the suit property is measuring about 9 cottahs 6 chittaks 35 square feet but there is a dispute with regard to the title of the plaintiff/petitioner in respect of 1 cottah 15 chittaks 35 square feet.

Thus it appears that a dispute has been raised with regard to the right of the petitioner to raise construction over a portion of the suit property.

It is well-settled that an order of injunction cannot be stayed by a superior forum at the stage of admission of the miscellaneous appeal as the same would amount to allowing the misc. appeal at the stage of admission. For such reason, this court is inclined to interfere with the order passed by the learned judge of the appellate court.

However, this court also cannot shut its eyes to the fact that if the petitioner is allowed to make construction in the meantime, the situation would become irreversible and, for such reason this court is inclined to pass an order restraining the petitioner from changing the nature and character of the property till the injunction application is disposed of by the learned trial judge.

Since the misc. appeal arises out of an ad interim order of injunction, no useful purpose would

be served by keeping the misc. appeal pending. With the consent of the learned advocates for the respective parties, Misc. Appeal No. 245 of 2025 pending before the learned District Judge at Alipore, South 24 Parganas stands disposed of.

The opposite parties herein shall file the written objection to the injunction application within a period of two weeks from date. Reply thereto, if any, be filed within a week thereto.

Pending disposal of the injunction application the plaintiff is restrained from changing the nature and character of the suit property.

The learned learned 2<sup>nd</sup> Additional Civil Judge (Jr. Division) at Alipore is requested to make an endeavour to dispose of the injunction application as expeditiously as possible without granting any unnecessary adjournment to either of the parties without being influenced by the fact that this court has passed an order of injunction.

CO 3296 of 2025 stands disposed of.

**(Hiranmay Bhattacharyya, J.)**