

IN THE HIGH COURT AT CALCUTTA
[CIRCUIT BENCH AT PORT BLAIR]

CO/24/2026

Shri Mahboob Alam

Vs

Shri Parimal Dutta & Anr.

Mr. Ananda Halder ... for the petitioner

Mr. N. A.Khan ... for the Respondent no.2

April 20, 2026
[SR]
Item No.3

1. Affidavit of service filed by the petitioner be kept on record.
2. Although there was no previous direction to serve, service has been effected on the parties and the opposite party no.2 is present before this Court, although the opposite party no.1 is unrepresented.
3. Despite the impugned order referring consistently to a purported application under Order 39 Rule 7 of the Code of Civil Procedure and culminating with the rejection of such purported application, learned counsel for the petitioner points out that the application under Order 39 Rule 7 of the Code of Civil Procedure filed by the petitioner had previously been allowed by the learned Trial Judge and the present challenge is to the impugned order dated March 03, 2026 where the Trial Court erroneously referred to the local inspection application, although dealing on merits with the petitioner's application under Order 39 Rule 4 of the Code for vacating an ad interim injunction order passed earlier.

4. In view of such submission, the present challenge substantially pertains to the rejection of an application under Order 39 Rule 4 of the Code, which is appealable under Order 43 of the Code. In view of availability of such equally, if not more, efficacious alternative remedy in the form of an appeal before the concerned District Court, this Court is not inclined to entertain the revisional application.

5. Accordingly, CO/24/2026 is dismissed as not maintainable, with liberty to the petitioner to prefer a challenge against the self-same impugned order on the grounds taken in the present revisional application by way of an appropriate appeal filed before the appropriate appellate court.

6. It is made clear that this Court has not entered into the merits of the matter and it will be open to the parties to argue all questions canvassed in the revisional application before the appellate Court as and when an appeal is filed.

7. For the purpose of preferring such appeal, the learned Advocate-on-record for the petitioner is granted liberty to take back the certified copy of the impugned order upon furnishing a photocopy thereof for the records.

8. There will be no order as to costs.

9. Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Sabyasachi Bhattacharyya, J.)