

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

CO/25/2025

Smti. Prem Kumari

Vs.

Smti. Priya Chander and others

Mr. G Binnu Kumar	
Ms. Vinita Devi	... for the petitioner/plaintiff
Mr. Sumit Karmakar	... for the respondent/ defendant nos.1 to 11

July 08, 2025
[Manoj]
Item No. 11

The petitioner/ plaintiff, filed Title Suit No. 9 of 2002 before the learned Civil Judge, Senior Division, Port Blair, seeking a decree of adverse possession in her favour against opposite parties/ defendants nos. 1 to 11. The said suit was dismissed on 20th January, 2009. The plaintiff preferred Title Appeal No. 14 of 2012 against the said decree.

During the pendency of the appeal, the plaintiff filed an application for injunction praying for an order restraining the defendants from filling earth or making any construction over the suit property until disposal of the appeal. The said injunction application was rejected on 11th February, 2021.

Subsequently, the plaintiff filed another application for injunction, alleging that defendant no. 3 had resumed activity on the suit land. The application contained the following allegation:

“That on and from 28/03/2025, respondent no. 3 is merrily pursuing dumping and earth cutting on the said land with the sole intention of carrying out construction over the said land.”

The said injunction application was dismissed by the order impugned dated 15th April, 2025, passed by the learned Additional District Judge, Port Blair.

Mr. Gopala Binnu Kumar, learned advocate appearing for the plaintiff, submits that the learned Additional District Judge ought not to have rejected the injunction application, as ample evidence had been adduced before the learned Trial Court to demonstrate the plaintiff's possession over the suit land. It is further submitted that the earlier injunction application was filed on a different cause of action, and therefore, the learned Judge ought not to have rejected the subsequent injunction application on the ground of res judicata.

Mr. Sumit Karmakar, learned advocate, submits that he appears for all the defendants except defendant no. 12.

This Court has compared the earlier injunction application with the present one and finds no substantial difference between the two.

Although the learned Additional District Judge, in the order impugned, did not discuss why the balance of convenience or irreparable loss and injury, or the prima facie case, was not in favour of the plaintiff, I am of the view that the order impugned does not call for interference. The learned Judge was correct in observing that the earlier injunction application had been rejected on 11th February, 2021, based on similar allegations against the defendants.

In view of the above, the revisional application is dismissed.

However, considering that the appeal has been pending since 2012, I direct the learned Additional District Judge to dispose of the appeal as expeditiously as possible, preferably within a period of three months from date.

(Kausik Chanda, J.)