

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

Before:

The Hon'ble Justice Hiranmay Bhattacharyya

C.O. 2189 of 2026

**Board of Trustees for the Port of
Syama Prasad Mookerjee Port
Vs.
M/s. Vijai Shree Private Limited**

For the Petitioner : Mr. Subhankar Nag
Mr. Abhishek Banerjee
..... advocates

For the Opposite Party : Mr. Biswaroop Bhattacharya
Mr. Debangshu Dinda
Mr. Arnab Kumar Ghosh
Mr. P. Manot
Mr. Niraj Tiwari
..... advocates

Reserved on : 04.08.2026

Judgment on : 01.10.2026

Hiranmay Bhattacharyya, J.:-

1. This application under Article 227 of the Constitution of India is at the instance of Shyama Prasad Mookerjee Port at Kolkata and is directed

against an order dated 01.07.2026 passed by the learned Additional District Judge, First Track Court, Howrah in Misc. Appeal No. 161 of 2022.

2. By the order impugned, the Estate Officer was directed to remove the padlock forthwith and await the final adjudication of the appeal.
3. Facts giving rise to this application under Article 227 of the Constitution of India in a nutshell are as follows.
4. The opposite party preferred an appeal being Misc. Appeal no. 161 of 2022 being aggrieved by the Order no. 16 dated 11.08.2022 passed by the Estate Officer of Shyama Prasad Mookerjee Port at Kolkata (for short "SMPK") in a proceeding being no. 1888, 1888/R of 2021. The opposite party sought for stay of operation of the impugned order and the learned Judge of the Appellate Court allowed the prayer for stay by an order dated 19.11.2022. The order of stay was extended from time to time till 29.01.2025 but was not extended thereafter as the opposite party did not take any steps.
5. On 03.06.2025, opposite party prayed for extension of the order of stay till the disposal of the appeal. Such petition was kept with the record and a date was fixed for hearing of such application.
6. On 10.09.2025, the petition dated 03.06.2025 praying for extension of the order of stay stood rejected on contest.
7. Being aggrieved by such order of rejection, opposite party approached this Hon'ble Court and this Hon'ble Court passed an order dated 15.12.2025 directing that there shall be an unconditional order of status quo with regard to the nature, character and possession of the property till 10.01.2026 and the same was continued for a period of five months till disposal of the appeal whichever is earlier.
8. The hearing of the appeal commenced from 17.06.2026.
9. Possession of the suit property was taken by SMPK on 16.06.2026.

10. Pursuant to an order dated 19.06.2026 passed in WPA 13489 of 2026, petitioner filed an application praying for removal of the padlock before the appellate Court. The said application was disposed of by directing the Estate Officer to remove the padlock forthwith and await till the final adjudication of the appeal.
11. Being aggrieved by the said order dated 01.07.2026 passed by the learned Judge of the Appellate Court, SMPK has approached this Court.
12. Mr. Nag, learned Advocate appearing for SMPK/ petitioner contended that the possession of the property was taken on 16.06.2026 when no order of injunction was subsisting. He further contended that the opposite party was not diligent in proceeding with the miscellaneous appeal and for such reason the interim order stood vacated. He further contended that the opposite party did not take any steps to extend the interim order. He further contended that mere pendency of an appeal cannot operate as an order of stay of operation of the order appealed against, unless an express order of stay is passed.
13. Mr. Nag contended that it cannot be said that the possession was taken in violation of an order of injunction and, therefore, the question of restoration of status quo ante cannot arise in the case on hand. In support of such contention he placed reliance upon a decision of the Hon'ble Supreme in the case of **Arjun Singh vs. Punit Ahluwalia and Ors.** reported at **(2008) 8 SCC 348**. Mr. Nag further contended that the essential conditions for passing an interim mandatory injunction is that the party seeking mandatory injunction must prove that such party has been dispossessed in violation of an order of injunction. In support of such contention he placed reliance upon the decision of the Hon'ble Supreme Court in the case of **Kishor Kumar Khaitan and another vs. Praveen Kumar Singh** reported at **(2006) 3 SCC 312**. Mr. Nag contended that the relief of interlocutory mandatory injunction can be passed only in exceptional situation and in support of such contention he placed reliance upon the decision of the Hon'ble Supreme Court in the case of **Dorab Cawasji Warden v. Coomi**

Sorab Warden, reported at **(1990) 2 SCC 117**. Mr. Nag contended that since the opposite party failed to make out a case that he was dispossessed in violation of an order of injunction, the order impugned is liable to be set aside.

14. Mr. Bhattacharjee, learned advocate appearing for the opposite party seriously disputed the contention of Mr. Nag. He contended that the interim order was extended from time to time. He further submitted that for reasons beyond the control of the opposite party the interim order could not be extended and taking advantage of such situation the petitioner put a padlock on the property in question one day preceding the date of hearing of the appeal. He submitted that such conduct of SMPK amounts to interference with or causing prejudice to the parties during the litigation. He submitted that such an action of SMPK amounts to interference with the due course of justice. In support of such contention he placed reliance upon the decision of the Hon'ble Supreme Court in the case of **Pratap Singh and Another vs. Gurbak Singh** reported at **AIR (1962) SC 1172**.
15. Mr. Bhattacharjee contended that if the status quo has been changed or altered by a wrongful act, the Court should not be hesitant to exercise its powers to restore the status quo ante even at the interlocutory stage by an order of mandatory injunction. In support of such contention he placed reliance upon a decision of the Hon'ble Division Bench of this Court in the case of **Indian Cable Company Limited vs. Smt. Sumitra Chakraborty** reported at **AIR 1985 Cal 248**.
16. Mr. Bhattacharjee contended that no public body can be regarded as having statutory authority to act in bad faith and any action purporting to be of that body but proved to be committed in bad faith would certainly be held to be inoperative. He further contended that courts had always acted to restrain a misuse of statutory power and more readily when improper motive underlie it. In support of such contention he placed reliance upon the decision of the Hon'ble Supreme Court in the case of **Express Newspaper**

Private Limited and ors. vs. Union of India and ors. reported at **(1986) 1 SCC 133.**

17. Mr. Bhattacharjee contended that the act of taking possession of the property by SMPK amounts to misuse of statutory power with improper motive and for such reason the learned Judge of the Appellate Court was right in striking down such action of SMPK and directing the removal of padlock from the property in question.
18. Heard the learned advocates for the parties and perused the materials placed.
19. Record reveals that the learned Judge of the Appellate Court refused to extend the order of stay on the petition dated 03.06.2025, filed by the opposite party, by an order dated 10.09.2025. The order dated 10.09.2025 was challenged by the opposite party in CO 3991 of 2025 and the co-ordinate bench by an order dated 15.12.2025 passed an unconditional order of status quo with regard to nature, character and possession of the suit property till 10.01.2026 and the same shall continue for a further period of five months or till the disposal of the appeal whichever is earlier. The learned Judge of the Appellate Court was directed to dispose of the appeal preferably within the said period and if the appeal could not be disposed of for some unforeseen situation the opposite party was given opportunity to renew the prayer for status quo.
20. Record reveals that on 31.01.2026, the hearing of the appeal including the maintainability point was adjourned to 16.04.2026 as the Court was lying vacant. The learned Judge of the Appellate Court by an order dated 16.04.2026 fixed the date of hearing of the appeal on 21.04.2026. It further appears from the order dated 12.05.2026 that the hearing of the appeal was adjourned to 17.06.2026 as the Presiding Officer was on leave.
21. At this stage it would be relevant to note that the status quo order pursuant to the order dated 15.12.2025 passed in CO 3991 of 2025 was in subsistence till 15.05.2026 or 10.06.2026 (if the 5 month extension period

is computed from 10.01.2026). However, on 12.05.2026 i.e., on a date when the interim order was subsisting, the hearing of the appeal was adjourned to a subsequent date as the Presiding Officer was on leave. Though the date of hearing was fixed on 17.06.2026, possession of the suit property was taken on 16.06.2026 i.e., one day prior to the date fixed for hearing of the appeal.

22. Petitioner claims that the possession of the suit property was taken on 16.06.2026 as there was no subsisting order of injunction as on that date.
23. At this stage it would not be out of place to note that the hearing of the appeal was adjourned to 17.06.2026 by an order dated 12.05.2026 when the interim order was subsisting. The hearing had to be adjourned as the Presiding Officer was on leave.
24. On 17.06.2026, the opposite party filed an application praying for extension of the interim order passed by the Hon'ble High Court on 15.12.2025 till the disposal of the appeal.
25. The learned Judge of the Appellate Court, by an order dated 17.06.2026, directed both the parties to maintain status quo with regard to nature, character and possession of the property till the conclusion of the said appeal.
26. Mr. Nag would vehemently contend that the effect of the order dated 17.06.2026 is that the status quo as on 17.06.2026 was directed to be maintained. He further contended that without praying for modification of the order dated 17.06.2026 the opposite party could not have prayed for removal of the padlock thereby altering the status quo which was directed to be maintained by the order dated 17.06.2026.
27. This Court is not inclined to accept the aforesaid contention of the petitioner for the reasons as stated hereinafter.
28. It is not the case of the petitioner that on 15.12.2025 i.e., the date on which CO 3991 of 2025 was disposed of, SMPK and not the opposite party was in possession of the property in question. The effect of the order of status quo

passed by the co-ordinate bench by an order dated 15.12.2025 is that the status quo with regard to nature, character and possession of the property was directed to be maintained.

29. Since the possession of the opposite party in the suit property as on 15.12.2025 is not disputed by SMPK the effect of the order dated 15.12.2025 is that the status quo with regard to possession of the opposite party in the property was directed to be maintained.
30. The learned Judge of the Appellate Court after considering the fact that the appeal could not be disposed of in spite of the direction passed by the co-ordinate bench and taking note of the order dated 15.12.2025 directed both the parties to maintain status quo with regard to nature, character and possession of the property till the conclusion of the appeal. The learned Judge of the Appellate Court in the order dated 17.06.2026 did not direct that the status quo that existed as on the date of passing of such order with regard to nature, character and possession of the property should be maintained.
31. Upon a reading of the order dated 17.06.2026 this Court is of the considered view that the status quo with regard to nature, character and possession of the suit property that existed as on 15.12.2025 was extended till the conclusion of the Misc. Appeal.
32. When the interim order was subsisting on 12.05.2026 and the hearing of the appeal was adjourned to 17.06.2026 on the ground that the learned Presiding Officer was on leave, this Court fails to understand as to what was the pressing urgency of SMPK that possession had to be taken on 16.06.2026 i.e., one day prior to the date fixed for hearing of the appeal on 17.06.2026.
33. The Hon'ble Division Bench in **Indian Cable Company Limited** (supra) held that if the status quo has been changed or altered by a wrongful act, the Court should not be hesitant to exercise its powers to restore the status quo ante even at the interlocutory stage by an order of mandatory injunction

simply because status quo at the date of filing of the suit is different from what it was before. The Hon'ble Division Bench held that the Court cannot allow the wrong doer a premium for his wrongful acts and reap the benefit of his act till the suit is finally disposed of.

34. In the case on hand, SMPK by its wrongful act altered the status quo that was prevailing as on 15.12.2025 which continued till 15.05.2026 or 10.06.2026 as the case may be and the wrong doer should not be allowed a premium for such wrongful act in order to reap the benefit of such act during the pendency of the appeal.
35. A party to a litigation should not feel encouraged to take advantage of the adjournment of the hearing of the appeal on the ground of unavailability of the Presiding Officer on the date when the status quo order was in subsistence.
36. In **Dorab Cawasji Warden** (supra) the Hon'ble Supreme Court held that the relief of interlocutory mandatory injunctions are granted to compel the undoing of those acts that have been illegally done or the restoration of that which was wrongfully taken from the party complaining. The said decision cannot come to the aid of the petitioner but supports the case of the opposite party as the possession of the property was taken illegally on a day prior to the date of hearing of the appeal and when the appellate Court was in seisin over the appeal.
37. The learned Judge of the appellate court even after noting that on 16.06.2026 there was no order directing the parties to maintain status quo rightly held that such fact could not have been a reason for the Estate Officer to act with such unexplained sense of urgency. The learned Judge of the Appellate Court rightly drew to an adverse inference against SMPK for taking possession of the property on 16.06.2026 when the hearing was fixed on 17.06.2026 and also that in course of hearing on 17.06.2026 it was never brought to the notice of the Court that the order which was subjected to appeal had already been executed.

38. Refusal to pass an order directing Estate Officer to remove padlock from the suit property would have the effect of putting a premium to the wrongful acts so as to allow SMPK to reap the benefit of such act till the disposal of the appeal which is not permissible.
39. In view of the aforesaid discussion this Court is of the considered view that the learned Judge of the Appellate Court was right in directing the Estate Officer to remove the padlock forthwith.
40. There is no quarrel to the proposition of law laid down in **Express Newspaper Private Limited** (supra) that no public body can be regarded as having statutory authority to act in bad faith and in action purporting to be of that body but proved to be committed in bad faith would certainly be held to be inoperative and the courts have the power to restrain to misuse of statutory power and when more readily when improper motives underlie it. In the said reported decision a challenge was thrown to the constitutional validity of notice of re-entry upon forfeiture of lease and of threatening to demolition of the building. The said decision being distinguishable on facts cannot be applied to the case on hand.
41. There is no quarrel to the proposition of law laid down in **Pratap Singh** (supra) that the use of threats by letter or otherwise to a party while a suit is pending or abusing a party in letters to pressing likely to be witnessed in the cause amounts to contempt. It does not matter whether the action in fact interferes but whether it had a tendency to interfere with the due course of justice. The tendency to coerce a party and forcefully to withdraw his suit or otherwise not pressed it amounts to contempt of Court. The said decision being distinguishable on facts cannot come to the aid of the opposite party herein.
42. For all the reasons as aforesaid this Court is not inclined to interfere with the order impugned. CO No. 2189 of 2026 stands dismissed. There shall be, however, no order as to costs.

43. Urgent photostat certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

(HIRANMAY BHATTACHARYYA, J.)

Later:

Date: 01.10.2026

After the pronouncement of the judgment, Mr. Nag, learned advocate appearing for the petitioners prays for stay of operation of the judgment and order on the ground that the hearing of the appeal under Section 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 has already been concluded and October 12, 2026 is fixed for delivery of judgment.

Such prayer is seriously opposed by the learned advocate for the opposite party.

In view of the reasons assigned in the order, this Court is not inclined to pass an order of stay of operation of this judgment.

(HIRANMAY BHATTACHARYYA, J.)