2026:CHC-AS:1125-D

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
And
The Hon'ble Mr. Justice Supratim Bhattacharya

F.M.A.T. No.488 of 2025
+
CAN 1 of 2025

REFULGENT BUILDCON LLP

-Versus-

K.N. Wire Private Limited and Others

For the appellant	:	Mr. Siddhartha Banerjee, Mr. Shounak Mukhopadhyay, Ms. Soni Ojha, Mr. Pranit Biswas, ... Advs.
For the respondent nos.1 to 3	:	Mr. Jaydip Kar, Sr. Adv., Mr. Srijib Chakraborty, Mr. Aditya Mondal, ... Advs.
For the respondent no.5	:	Mr. Sauvik Nandy, Sr. Adv., Mr. Dyutimoy Paul, ... Adv.
Heard on	:	16.02.2026, 17.03.2026, 24.06.2026, 09.07.2026 & 15.07.2026
Reserved on	:	15.07.2026
Judgment on	:	28.07.2026

Sabyasachi Bhattacharyya, J.:-

1. The appellant has filed a suit for declaration that the plaintiff/appellant has sole right to hold, possess, enjoy and deal with the suit property, for perpetual injunction restraining the defendants and/or their men and agents and representatives from illegally trespassing into the suit property and from unlawfully obstructing the entry or access of the plaintiff and/or wrongfully interfering with its lawful possession/occupation of the suit property in any manner whatsoever.

2. In the said suit, an application has been filed by the plaintiff for injunction in tune with the plaint prayers. By the impugned order dated December 1, 2025, the learned Trial Judge, observing that the plaintiff has been able to make out a prima facie case and considering the urgency of the matter, directed both parties to maintain *status quo* in respect of the nature, character and possession of the suit property for a limited period.

3. The said order has been assailed by the plaintiff/appellant, urging that instead of blanket *status quo*, which would not serve the purpose of the plaintiff, the learned Trial Judge ought to have specifically granted injunction as prayed for in the application.

4. Learned counsel for the appellant contends that upon the borrower/respondent no. 1 having defaulted in repaying the loan taken by it from the Reliance Estate Reconstruction Company Limited, the latter conducted an e-auction. The appellant, being the successful bidder therein, purchased the property in such e-auction sale. The e-auction notice was issued on July 10, 2025, fixing August 19, 2025 as the date of auction. Pursuant thereto, a sale certificate was issued on August 20, 2025 in favour of the appellant and a registered sale certificate deed was executed on the very next date, that is, on August 21, 2025. On September 10, 2025, the property was mutated in the name of the appellant.

5. Subsequently, an order was passed under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "the SARFAESI Act") and symbolic possession of the suit property (secured asset) was given to the appellant. Since the property had been sealed pursuant to a distraint order passed by the Kolkata Municipal Corporation (KMC), the appellant repaid the dues of the KMC and the possession was physically handed over to the appellant.

6. It is argued that, in the above manner, the appellant is in "settled possession" of the property. Thus, the ownership, coupled with settled possession, entitles the appellant to protect its possession and right of ingress and egress to the property.

7. In order to explain the concept of "settled possession", learned counsel for the appellant cites *Rame Gowda (Dead) by lrs vs. M. Varadappa Naidu (dead) by lrs. and another*, reported at *(2004) 1 SCC 769*.

8. It is submittted that in IA No. 6153 of 2006, an interlocutory application filed in connection with TSA No.98 of 2026, a proceeding initiated by the respondent no. 1 under Section 17 of the SARFAESI Act before the Kolkata Debts Recovery Tribunal – II, it has been admitted by the respondent no. 1 that statutory notice of demand under Section 13(2) of the SARFAESI Act was issued to the said borrower first on October 18, 2016. During the subsistence of such notice, purported indentures of lease were executed by respondent no. 1/borrower in the year 2019 in favour of respondent no. 5.

9. It is argued that Section 13(13) of the SARFAESI Act debars such transfer of the property in favour of the third parties after issuance of notice under Section 13(2).

10. It is further contended by the appellant that the lease deed executed in favour of the respondent no. 5 cannot be sustained under Section 55(6) of the Transfer of property Act, 1882 (hereinafter referred to as “the TP Act”) since the mandate under Section 65A(2), Clauses (c) and (e) of the said Act were not complied with.

11. Furthermore, there was a tripartite agreement between the borrower, secured creditor and the Kotak Mahindra Bank, another secured creditor, in terms of which the borrower could not transfer the property. The said clause was violated by the instruments of lease.

12. It is argued that the borrower lost its rights to redeem the mortgage after the property was put up for auction sale. Hence, the borrower does not have the *locus standi* to stand in the way of enjoyment of the suit property by the appellant, the auction purchaser.

13. In support of such contention, learned counsel cites *CELIR LLP vs. Bafna Motors (Mumbai) Private Limited and Others*, reported at *(2024) 2 SCC 1*.

14. As to the respondent’s argument that the KMC could not have lawfully made over the possession of the suit property to the appellant, it is argued that the respondents never resorted to any legal action against the KMC before any forum. Moreover, the appellant, being the lawful owner and having redeemed the dues of the KMC, was entitled to physical possession being handed over to it by the KMC.

15. Learned counsel next addresses the objection of the respondents that Appendix-V of the Security Interest (Enforcement) Rules, 2002 (hereinafter referred to as "the 2002 Rules"), read with Rule 9(6) thereof, was not complied with, since the necessary ingredients given in the format thereunder was not duly fulfilled while drawing up the sale certificate in favour of the appellant. The appellant argues that strict adherence to the said proforma is not mandatory in law.

16. Learned counsel appearing for the appellant next cites *ITC Limited vs. Blue Coast Hotels Limited and Others*, reported at *(2018) 15 SCC 99*, for the proposition that even after the sale of a secured asset to an auction purchaser, the secured creditor can take resort to Section 14 of the SARFAESI Act for taking physical possession of the secured asset from the borrower. Thus, it is not necessary to indicate in the sale certificate that physical possession of the property sold has been made over to the purchaser.

17. Learned counsel for the appellant next refers to *Bajarang Shyamsunder Agarwal vs. Central Bank of India and Another*, reported at *(2019) 9 SCC 94*, cited by the respondents, and distinguishes the same to the effect that even the Hon'ble Supreme Court observed therein that a lease by a mortgagor must adhere to the provisions of Section 65A of the TP Act.

18. Distinguishing *Kewal Chand Mimani (D) by lrs. vs. S.K.Sen and Others*, reported at *(2001) 6 SCC 512*, also relied on by the respondents, learned counsel for the appellant argues that as per the said report, one must at least have some semblance of a right *qua* the concerned property which should continue till an order is passed by the court. The respondents, it is submitted, had ceased to have any semblance of interest in the suit property at the time of institution of the present suit.

19. Thus, it is argued that the learned Trial Judge ought to have granted injunction as prayed for in the injunction application instead of granting a blanket order of *status quo*.

20. In reply, learned senior counsel appearing for the respondent nos.1 to 3 (borrowers) argues that the letter written by the appellant/complainant to the police on October 30, 2025, annexed to the stay petition, shows that the plaintiff/appellant admitted that it only got "symbolic possession", which clearly establishes that the plaintiff did not get vacant possession pursuant to the sale, nor did the secured creditor/financial institution certify the sale to be free from encumbrances, as required by law. The mandatory requirements in terms of the Appendix-V, read with Rule 9(6), of the 2002 Rules were, thus, not complied with.

21. It is next argued that the KMC, as per the plaint, attached the suit property for realization of its dues from the then owner/borrower. Thus, the possession was unlawfully handed over by the KMC to the appellant *de hors* the procedure prescribed in Section 14 of the SARFAESI Act. It is argued that the legality of such possession is thus vitiated.

22. Learned senior counsel contends that in *Bajarang Shyamsunder Agarwal (supra)*[1], the Hon'ble Supreme Court held that existing leasehold rights are protected till the time the bank determines the lease by resorting to Section

---

[1] ***Bajarang Shyamsunder Agarwal vs. Central Bank of India and Another reported at (2019) 9 SCC 94***

111 of the TP Act and evicts the lessee through lawful process, except where a registered sale/tenancy is created after service of notice under Section 13(2) of the SARFAESI Act. As per the plaint case, the demand notice under Section 13(2) was issued by the financial institution on October 16, 2024, that is, subsequent to the lease deeds. Consequently, the lease would be governed not by the SARFAESI Act but by Section 65A, read with Sections 107 and 111, of the TP Act. In the absence of any termination of the lease of respondent no. 1, it is contended that no lawful possession could be handed over to the appellant.

23. The sale certificate and the corresponding deed in favour of the appellant, it is submitted, are under challenge under Section 17 of the SARFAESI Act before the Debts Recovery Tribunal. Thus, it would be premature to hold that the appellant has obtained clear title and/or possession in the suit property as yet.

24. Learned senior counsel appearing for the respondent no.5, which claims to be a lessee under respondent no.1, argues that the de-sealing of the suit property by the KMC, to constitute handing over of physical possession, required the KMC to have been in actual physical possession of the suit property, to have legal authority to deliver such possession to a third party and the delivery to have effectively displaced the actual physical occupant of the property.

25. The Kolkata Municipal Corporation act, 1980 (for short, “the KMC Act”) does not empower the KMC to physically dispossess an occupant or deliver possession to a third party. A conjoint reading of Sections 195 and 225 of the KMC Act, it is argued, makes it clear that the mechanism of recovery from the occupier is not physical dispossession but recovery through interception and redirection of the rent payable by the occupier to the owner. The occupier's physical possession is never disturbed. The expression "rent" used in Section 225 of the KMC Act indicates that the said provision contemplates continuance of possession on the original occupant and cannot be elevated to mean dispossession or eviction. The rent stream is merely redirected from the owner to the KMC under the said provisions.

26. Sealing of the suit property by KMC, it is submitted, was a coercive measure directed against the owner (respondent no.1) to compel payment of property tax and not taking actual physical possession from the occupant. Thus, the process prescribed under the SARFAESI Act and/or recovery of possession through a Civil Court was never resorted to, vitiating the legality of the alleged possession of the appellant.

27. The lease deeds of respondent no. 5, it is argued, were executed between the years 2016 and 2019 and the mortgage in favour of the secured creditor/financial institution was created in 2008. The notice under Section 13(2) of the SARFAESI Act being issued only subsequently on October 16, 2024, the lawful lessee/respondent no. 5 was required to be evicted in due process in law before handing over possession to the auction purchaser/appellant. Thus, valid possession could not have been handed over to the appellant.

28. Lastly, learned counsel argues that at the ad interim stage, the Appellate Court would not entertain any additional document which were not on record before the Trial Court, except the plaint and the injunction application. In support of such contention, learned counsel cites the unreported judgment in *Kanta & Others. Vs. Soma Devi (D) through LR and Others (Civil Appeal No. 8451 of 2011).*

29. The three cardinal questions which arise for adjudication in the present appeal are as follows:

(i) Whether the appellant is in legally valid possession of the suit premises;

(ii) Whether the respondents have *locus standi* to dispute the appellant's right, title and interest;

(iii) Scope of considering additional documents in an appeal against an ad interim injunction.

30. The said issues are decided as follows:

(i) <u>Whether the appellant is in legally valid possession of the suit premises</u>

31. For a comprehensive adjudication of the *lis*, certain dates are required to be looked into, which are as follows:

Dates	Events
March 2008	Respondent no.1/borrower took a loan and mortgaged the suit property
April 11, 2019 May 16, 2019	Three registered lease deeds executed by respondent nos.1 to 3/borrowers in favour of the

	respondent no.5/lessee for 30 years with a renewal clause.
October 11, 2019	Alleged sub-lease by respondent no.5 to a third party.
September 29, 2024	KMC issued distress warrant against the borrower/respondent no.1 for non-payment of its dues.
October 16, 2024	Section 13(2), SARFAESI Act notice issued to the borrower.
January 28, 2025	Section 13(4) notice issued for taking symbolic possession.
July 10, 2025	e-auction notice published, fixing August 19, 2025 as date of auction.
August 20, 2025	Sale Certificate issued in favour of appellant.
August 21, 2025	Registered Sale Certificate Deed executed in favour of the appellant.
September 10, 2025	Appellant's name mutated in respect of the suit property.
September 22, 2025	KMC allegedly handed over the suit property to the appellant upon the latter paying dues of the KMC.
December 1, 2025	Present suit and the impugned order passed.

March 6, 2026	Section 17, SARFAESI Act application filed by respondent no.1 seeking cancellation of the Sale Certificate and registered sale deed in favour of appellant and seeking recovery of possession.

32. The sale certificate dated August 20, 2025 and the corresponding registered deed dated August 21, 2025, executed in favour of the appellant, were produced in the Trial Court, thus leaving no manner of doubt as to the valid title acquired by the appellant in respect of the suit property by dint of such e-auction sale.

33. In *Rame Gowda (Dead) by LRs (supra)*[2], the Hon'ble Supreme Court observed that so far as the Indian Law is concerned, the person in peaceful possession is entitled to retain his possession and in order to protect such possession, he may even use reasonable force to keep out a trespasser. A rightful owner who has been wrongfully dispossessed of land may retake possession if he can do so peacefully and without the use of unreasonable force. In the absence of proof of better title, possession or prior peaceful settled possession is itself evidence of title. The Hon'ble Supreme Court further observed that it is the settled possession or effective possession of a person without title which would entitle him to protect his possession even as against the true owner.

---

[2] ***Rame Gowda (Dead) by lrs vs. M. Varadappa Naidu (dead) by lrs. and another reported at (2004) 1 SCC 769***

34. Although cited by the appellant, the said judgment is not directly germane in the present case, since the claim of the appellant is on the basis of title acquired through an auction sale, and the appellant has not "retaken" possession but has obtained possession from the KMC.

35. However, the title of the appellant to the suit property at the juncture when possession was given to it by the KMC, by dint of the auction sale, cannot be denied.

36. In *ITC Limited (supra)*[3], the Hon'ble Supreme Court observed that there is nothing in the provisions of the SARFAESI Act (with particular reference to Section 14 thereof), that renders taking over of symbolic possession illegal. This was held to be a well-known device in law. While deciding the issue as to whether the creditor could maintain an application for possession under Section 14 of the Act even though it had taken over only symbolic possession before the sale of the property to the auction-purchaser, it was held to depend on whether it remain a secured creditor after having done so. Upon taking into consideration the relevant provisions of law, it was observed that what is sold at a court sale is the right, title and interest of the judgment-debtor, the extent of which is a mixed question of fact and law. If the creditor did not have actual possession of the secured asset but only symbolic possession, the transfer of the secured asset could not be construed to be a complete transfer and the creditor retained the right to take actual possession of the secured assets.

---

[3] ***ITC Limited vs. Blue Coast Hotels Limited and Others reported at (2018) 15 SCC 99***

37. In the present case, an order was passed under Section 14 of the SARFAESI Act, pursuant to which symbolic possession of the property was taken. Thus, it cannot be said that possession was taken *de hors* the provisions of the law.

38. The sealing of the suit property by the KMC to recover dues from the borrower/erstwhile owner was in terms of the relevant provisions of the KMC Act. Section 195 thereof stipulates that on the failure to recover any sum due on account of the property tax, the Municipal Commissioner shall, notwithstanding anything contained in the West Bengal Premises Tenancy, Act, 1956 or any other law for the time being in force, recover from every occupier of such land or building, by attachment of the rent payable by such occupier, a portion of the total sum due which bears, as nearly as may be, the same proportion to that sum as the rent annually payable by such occupier bears to the total amount of rent annually payable in respect of the whole of such land or building.

39. Section 220 of the said Act provides that it shall be lawful for any officer or other employee of the KMC to whom a warrant issued under the Chapter is addressed to distrain, wherever, it may be found in any place in Kolkata, any movable property belonging to the person liable following the conditions stipulated therein. Section 225 makes the occupiers liable to make payment towards satisfaction of the property tax. Section 221A provides for attachment and sale of property.

40. In the present case, however, we need not go into whether the KMC had the right to recover possession from the borrower. The distraint order of the

KMC or the sealing of the property due to non-payment of KMC dues by the erstwhile owner/respondent no.1 has not been challenged before any forum, not has such fact been disputed by the respondent no.1. Thus, the sealing of the property was, for all practical purposes, an encumbrance on the property.

41. Upon acquiring title through the auction sale, the appellant became the owner of the suit property. In such capacity, the appellant repaid the debts of the KMC and had the property de-sealed, thereby liberating the suit property from such encumbrance.

42. On the other hand, the borrower/respondent no.1 had already lost its title, which vested in the appellant as on the date of such removal of encumbrance by repayment of the KMC debts. Having already been granted symbolic possession under Section 14 of the SARFAESI Act, the appellant took physical possession in its own right as owner merely upon removing the encumbrance. On such date, it was the appellant, as owner, which was entitled to possession whereas the respondent no.1/borrower, being no longer the title-holder, had no such right.

43. Thus, the possession of the property was taken within the ambit of the SARFAESI Act itself. Initially symbolic, such possession was converted into actual physical possession as a follow-up of such symbolic possession. In the process, the appellant merely removed the encumbrance on the said property by repaying the KMC dues. The modality in which physical possession was taken by the appellant is within the trappings of the SARFAESI Act itself, whereas the de-sealing of the property merely tantamounted to removal of the encumbrance under the KMC Act. Thus, it cannot be said that the obtaining of physical possession by the appellant was vitiated in any manner.

44. The respondents have raised an issue as to the Sale Certificate not being in terms of Appendix-V under Rule 9(6) of the 2002 Rules. However, as held in *ITC Limited (supra)*[4], the physical possession can very well be taken even after auction sale. Hence, Appendix-V and Rule 9(6) have to be construed in proper perspective. The law does not provide that the format given in Appendix-V, which is merely a proforma for guidance, has to be mandatorily followed while drafting a sale certificate.

45. Since physical possession can be taken even after the sale certificate being issued, the certificate need not necessarily contain an averment as to the property being free from encumbrances on that date and/or physical possession being handed over. Thus, such objection, though apparently attractive, is without any legal basis.

46. In *Kanta (supra)*[5], it was held by the Hon'ble Supreme Court that the plaintiff, for the relief of perpetual injunction, along with *prima facie* case, balance of convenience and irreparable loss, must also prove the actual possession of the suit schedule on the date of filing of the suit. Such condition has been fulfilled by the appellant, which is evident from the materials and averments of the plaint and the injunction application as well as the documents filed in support thereof.

---

[4] ***ITC Limited vs. Blue Coast Hotels Limited and Others reported at (2018) 15 SCC 99***
[5] ***Kanta & Others. Vs. Soma Devi (D) through LR and Others (Civil Appeal No. 8451 of 2011)***

47. Hence, this issue is decided in favour of the appellant, by holding that the appellant is in legally valid possession of the suit property from prior to the institution of its suit.

(ii) Whether the respondents have locus standi to dispute the appellant's right, title and interest

48. In *CELIR LLP (supra)*[6], the Hon'ble Supreme Court held that as per the amended provisions of Section 13(8) of the SARFAESI Act, the right of the borrower to redeem the secured asset stands extinguished thereunder on the very date of publication of the notice for public auction under Rule 9(1) of the 2002 Rules. The right of redemption available to the borrower under the present statutory regime was held to be drastically curtailed, being available only till the date of publication of the notice under Rule 9(1) and not till the completion of the sale or transfer of the secured asset in favour of the auction purchaser.

49. In the present case, the appellant is on a much better footing, since the sale has already been concluded in its favour by issuance of a sale certificate, execution of a registered sale deed and mutation of its name on the strength of the same. The borrower lost its rights much prior to the filing of the suit. Thus, the respondents had lost *locus standi* to question the title or possession of the appellant in any manner even before institution of the suit.

[6] ***CELIR LLP vs. Bafna Motors (Mumbai) Private Limited and Others reported at (2024) 2 SCC 1***

50. As per *P. Elaiyappan v. Natrajan & Ors. [SLP (C) Nos. 1989-1990/2024]*, cited by the appellant, once title is with the plaintiff, and he establishes his possession over the suit property on the date of institution of the suit, he cannot be denied injunction, particularly against a person with no title, merely because such possession was obtained by private negotiation or other means. The said principle, laid down by the Hon'ble Supreme Court, is squarely applicable in the present case, denuding the respondent no.1 of any right to contest the title or possession of the appellant, which is in possession as the rightful owner of the suit property.

51. Insofar as the respondent no.5 is concerned, its claim is based on lease deeds executed in or around the year 2019.

52. The scope of adjudication in an appeal against an *ex parte* ad interim inunction is limited, similar to that of the trial court passing such order, to a consideration of the averments made in the plaint and the injunction application and the documents relied on therein or filed therewith.

53. Going by the plaint and temporary injunction application filed in the trial court, the claim of the respondent no.5 is not based on any title, by dint of any lease deed or otherwise. Its role is merely that of one of the entities disturbing the peaceful possession and ingress and egress of the plaintiff/appellant in respect of the suit property. Thus, seen from the said perspective, the claim of respondent no. 5 of leasehold rights by virtue of lease deeds executed by the respondent no. 1/borrower cannot be taken note of.

54. However, in Paragraph No.9 of the plaint, the appellant refers to the defendant/respondent nos.1 to 4 making unsuccessful attempt to challenge the demand and possession notices under Section 13(2) and 13(4) before the competent forum. In view of such averment, the court acquires jurisdiction to look into such challenge before the "competent forum" for the purpose of deciding the *ex parte* ad interim prayer of injunction. Such challenge is the application under Section 17 of the SARFAESI Act taken out by the borrowers and IA No.6153 of 2026, which is an interlocutory application filed in connection therewith. Even otherwise, since the said application is also relied on by the respondents, there cannot be any reason why the averments made therein cannot be taken note of.

55. In terms of the admissions made in the said applications, there were four demand notices under Section 13(2) of the SARFAESI Act issued by the secured creditor/financial institution against the borrowers. The first notice was issued on October 18, 2016, to which an objection was submitted by respondent no.1 on December 14, 2016. A possession notice under Section 13(4) was issued on January 3, 2017 pursuant thereto.

56. As per the allegations in the said IA, another notice under Section 13(2) was issued on October 21, 2021, followed by a similar notice dated January 18, 2022 and, lastly, the notice dated October 16, 2024, which has been referred to in the plaint.

57. The alleged lease deeds were executed in favour of the respondent no.5 by the respondent no.1/borrower in the interregnum between the first notice under Section 13(2) dated October 18, 2016 and the second dated October

21, 2021. Thus, on the dates when the lease deeds were executed, the first notice under Section 13(2) was still in force. Accordingly, the rigours of Section 13(13) of the SARFAESI Act were squarely applicable, which debars any borrower, after receipt of notice under Section 13(2), from transferring by way of sale, lease or otherwise (other than in ordinary course of business) any of the secured assets referred to in the notice without prior written consent of the secured creditor. It is nobody's case that granting leases or dealing with real estate comes within the ordinary course of business of respondent no.1/borrower, nor that any prior written consent was obtained for grant of such lease from the secured creditor. Accordingly, the lease deeds were squarely vitiated by Section 13(13) of the SARFAESI Act and, as such, did not operate to transfer any valid right, title or interest in favour of the respondent no.5.

58. Again, Section 65A(1) of the TP Act provides that subject to the provisions of sub-section (2) thereof, a mortagagor, while lawfully in possession of the mortgaged property, shall have power to make leases thereof which shall be binding on the mortagagee. Sub-section (2)(c) of Section 65A, however, provides that no such lease shall contain a covenant for renewal. Clause (e) of Section 65A(2) provides that in the case of lease of buildings, whether leased with or without the land on which they stand, the duration of the lease shall in no case exceed three years.

59. Admittedly, the lease purportedly granted in favour of the respondent no.5 contained a renewal clause and the tenure of the lease was 30 years. Thus, both Clauses (c) and (e) of Section 65A(2) were squarely violated, vitiating the lease deed on such count as well.

60. Hence, no valid title could pass in favour of respondent no.5 by dint of the lease deeds executed in its favour by the borrower/respondent no.1. Hence, the respondent no.5 also does not have *locus standi* to dispute the title and/or possession of the appellant on the strength of such unlawful lease deed.

61. In *Bajarang Shyamsunder Agarwal (supra)*[7], compliance of Section 65A was read into the lease which can be given by a mortgagor.

62. As rightly contended by the appellant, as per the ratio laid down in *Kewal Chand Mimani (D) by lrs. (supra)*[8], there has to be a semblance of a right in favour of the lessee for the lessee to assert its rights. It was held therein that once the possessor's right is transferred or shifted from the lessee and the lease deed stood terminated during the temporary interregnum when the lessee was deprived of its possession, the question of putting back the lessee on to the possession, if the expiry of the lease was in accordance with the provisions of law, does not and cannot arise.

63. In the present case, apart from the respondent no.5 having acquired no right in the suit property due to the legal fetters discussed above, in view of its lessor, the borrower, itself having lost its title in the property, the right claimed by the respondent no.5 through respondent no.1 also did not subsist.

---

[7] ***Bajarang Shyamsunder Agarwal vs. Central Bank of India and Another reported at (2019) 9 SCC 94***

[8] ***Kewal Chand Mimani (D) by lrs. vs. S.K.Sen and Others reported at (2001) 6 SCC 512***

64. The lease, being granted post-Section 13(2) notice, the lessee is even otherwise not entitled to protection under the law as against the subsequent purchaser.

65. Again, the possession of the property was acquired by the appellant on a date when neither respondent nos.1 to 3 nor respondent no.5 were in occupation of the property. In such view of the matter, none of the respondents have *locus standi* to resist the title or possession of the property.

(iii) Scope of considering additional documents in an appeal against an ad interim injunction

66. The respondent no.5 contends that at the ad interim stage, the appellate court cannot entertain any additional document.

67. As per the above discussion, even relying on the plaint averments and the documents relied on therein and filed in support of the injunction application, this Court comes to the conclusion that the appellant made out a clear case of title and actual physical possession to obtain injunction.

68. Thus, this issue is rendered redundant.

CONCLUSION

69. The learned Trial Judge, despite having arrived at the finding that the appellant has made out a *prima facie* case and that the other tests of grant of injunction, including urgency, are fulfilled, merely granted *status quo*, operative against the appellant as well, wholly without any reason.

70. In fact, the appellant is justified in arguing that mere *status quo* regarding possession would not suffice, since the respondents, even within the ambit of the *status quo*, still remain free to disturb the access of the appellant to and from the suit property.

71. Thus, the impugned order is required to be modified to that extent.

72. Accordingly, F.M.A.T. No.488 of 2025 is allowed on contest, thereby modifying the impugned order dated December 1, 2025 passed by the learned Civil Judge (Senior Division) at Sealdah, District – South 24 Parganas, Title Suit No.276 of 2025 to the effect that the respondents and/or their men, agents and representatives shall remain restrained by an order of injunction from illegally trespassing into the suit property and/or from unlawfully obstructing the entry or access of the plaintiff/appellant thereto and/or from wrongfully interfering with the lawful possession/occupation of the plaintiff/appellant in respect of the suit property in any manner whatsoever till disposal of the temporary injunction application by the trial court.

73. The respondents are directed to file their respective written objections, if not already filed, to the temporary injunction application in the trial court within three weeks from date.

74. It is expected that the learned Trial Judge shall decide the temporary injunction application as expeditiously as possible, preferably within eight weeks from the date of communication of this order to the trial court, subject to the filing of the written objections by the defendants/respondents within the aforementioned period.

75. It is further clarified that the above observations are tentative in nature and shall not unduly influence the learned Trial Judge while deciding the temporary injunction application or the suit.

76. CAN 1 of 2025 is also disposed of consequentially.

77. There will be no order as to costs.

78. Urgent certified copies of this judgment, if applied for, be supplied to the parties upon compliance of all formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)

Later

After the above judgment is passed, learned counsel for the respondent nos. 1 to 3 seeks a stay of operation of the same.

However, since the nature of the judgment is prohibitory, such prayer is refused.

(Supratim Bhattacharya, J.) **(Sabyasachi Bhattacharyya, J.)**