Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'be Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Biswaroop Chowdhury

F.M.A. 25 of 2026
IA No: CAN 1 of 2025

Sri Gourdas Saha and another
Vs.
Sri Dipankar Majumdar

For the appellant	:	Mr. Debnath Ghosh, Sr. Adv. Mr. Biswaroop Mukherjee Mr. Abhik Chitta Kundu Mr. Angshujit Ghosh, Advs.
For the respondent	:	Mr. Supratick Syamal Ms. Arkarupa Roy, Advs.
Heard on	:	11.05.2026
Judgment on	:	11.05.2026

Sabyasachi Bhattacharyya, J.:-

1. The appeal is admitted to be heard on the grounds taken in the memorandum of appeal and, on consent of the parties, is taken up for hearing along with the application.

2. The moot contention raised by the appellants before this court is twofold - first, the suit pertains to a commercial dispute as contemplated in the Commercial Courts Act, 2015 but has been instituted as a regular civil suit; secondly, although the suit has been couched as a declaratory suit simpliciter, the foundational premise of the plaintiff's cause of action is infringement of the alleged copyright of the plaintiff/respondent in respect of two chapters of a Chemistry book published by the defendants/appellants, which is a part of the West Bengal Higher Secondary Council syllabus.

3. It is contended by learned senior counsel appearing for the appellants that not only was the suit required to be filed before a designated commercial court, the trappings of a commercial dispute had to be reflected in the plaint itself, since a commercial suit has certain unique features which are absent in a regular suit, such as the applicability of Section 12A of the Commercial Courts Act, 2015.

4. Secondly, the learned Single Judge, it is argued, did not record any reason worth the name as to what was the compelling urgency to grant *ad interim* injunction without giving notice to

the defendants, within the contemplation of the proviso to Order XXXIX Rule 3 of the Code of Civil Procedure.

5. In support of such contention, learned senior counsel cites *Time City Infrastructure and Housing Limited vs. State of U.P. and others* reported at *2025 SCC Online SC 1674*.

6. In the said judgment, the imperative nature of the proviso to Order XXXIX Rule 3, mandating the court to give reason for passing an *ex parte ad interim* order, was discussed at length by considering several previous judgments on the self-same proposition.

7. On the necessity of reasons, learned senior counsel also cites *Union of India and others vs. Essen Mining & Industries Limited and another* reported at *(2005) 6 SCC 675*.

8. By placing reliance on the relevant provisions of the Copyright Act, 1957, learned senior counsel contends that the suit, as framed, is steeped in the copyright claim made by the plaintiff, although framed as an ordinary declaratory suit.

9. Even otherwise, it is submitted that since the alleged offending book contains only two chapters purported to have been authored by the plaintiff, the trial court could very well have permitted the appellants to continue publishing the book by

deleting the said two offending chapters. Instead, the learned Trial Judge restrained the appellants from publishing the said book in its entirety without reflecting the name of the plaintiff/respondent as author.

10. Learned counsel appearing for the plaintiff/respondent argues that in the City Civil Court at Calcutta, there is no specific notification designating any commercial court but certain courts have been earmarked for entertaining suits of a commercial nature.

11. As such, there was no scope for the suit to be filed specifically in the Commercial Division of the City Civil Court.

12. Even otherwise, it is submitted that the premise of the suit is declaratory relief on the manuscript authored by the plaintiff/respondent. Thus, the trappings of a commercial suit are not applicable.

13. In addition, learned counsel submits that there was no agreement alleged to have been entered into between the parties to bring the suit within the purview of a “commercial dispute” as stipulated in the 2015 Act.

14. Learned counsel for the plaintiff/respondent submits that the defendants/appellants are guilty of recurring violations of the

order of injunction passed by the learned Trial Judge by continuing to print the concerned book with the offending chapters, without attributing due credits for those chapters to the plaintiff/respondent as the author.

15. Upon hearing learned counsel for the parties, the Court comes to the following conclusions:

16. Insofar as the first ground of the appeal is concerned, there is substance in the contention of the appellants that the suit, on the face of the plaint, pertains to a "commercial dispute" as contemplated under the Commercial Courts Act, 2015.

17. Section 2(1)(c)(xvii) of the said Act provides that a "commercial dispute" includes a dispute arising out of intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, etc.

18. From the very frame of the present suit, it is clear that the plinth of the rights, which form the premise of the cause of action of the plaintiff/respondent, is based on the plaintiff's alleged copyright.

19. In the suit, the plaintiff/respondent has claimed that he has authored certain manuscripts containing the two offending chapters, which were handed over by him in good faith to the

appellants-publishers and are being allegedly published by the defendants/appellants without taking his permission and without acknowledging the authorship of the plaintiff/respondent.

20. From a perusal of the relevant provisions of the Copyright Act, in particular Sections 55 and 57 thereof, it is clear that the foundation of the suit is comprised of rights flowing from the Copyright Act, 1957, thus, coming within the purview of Section 2(1)(c)(xvii) of the Commercial Courts Act, particularly since, as per the valuation of the suit disclosed in the plaint itself, it is above the "specified value" stipulated for the City Civil Court at Calcutta.

21. Hence, as the issue of jurisdiction hits at the very root of the *prima facie* case, this court is of the opinion that the *ad interim* injunction order was passed by the learned Trial Judge, acting in the capacity of a regular civil court (as opposed to a designated Commercial Court), without jurisdiction. Although the respondent is correct in arguing that despite no particular Bench having been designated by notification as 'Commercial Court' in the City Civil Court at Calcutta, commercial suits are assigned to different Benches of the said Court according to

territorial jurisdiction, fact remains that the present suit was filed as a regular declaratory suit and, thus, was entertained by the Trial Court as an ordinary suit.

22. Even otherwise, although the learned Trial Judge paid lip-service to reasons in respect of the three tests of injunction, there was no exercise on the part of the learned Trial Judge to advert to the actual materials placed before him, nor was there any specific reason assigned in the impugned order as to why the object of granting the injunction would be defeated by delay, as required to be furnished under the proviso to Order XXXIX Rule 3 of the Code of Civil Procedure.

23. As has been reiterated time and again by the Hon'ble Supreme Court and different High Courts of the country, the reason for the purpose of grant of *ad interim* injunction has to be specifically enumerated in the order itself, in however precise/concise manner it may be.

24. However, we do not find any such reason having been recorded in the present impugned order, thus vitiating the *ad interim* injunction on such count as well.

25. In view of the above findings, we deliberately choose not to enter into the merits of the respective claims of the parties at this

stage, since it may adversely prejudice either of the parties in other proceedings and/or subsequent stages of the present suit.

26. Be that as it may, the impugned order suffers from several errors of law and fact, as pointed out above, and is tainted *prima facie* by lack of jurisdiction.

27. Accordingly, FMA 25 of 2026 is allowed on contest, thereby setting aside the impugned order, bearing Order No. 2 dated November 24, 2025 passed by the learned Judge, Tenth Bench, City Civil Court at Calcutta in Title Suit No.2637 of 2025.

28. CAN 1 of 2025 is accordingly disposed of.

29. There will be no order as to costs.

30. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Biswaroop Chowdhury, J.)

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