

(2025) 12 CAL CK 0008

Calcutta HC

Case No: F.M.A.T 490 Of 2025

Hinduja Leyland Finance Ltd

APPELLANT

Vs

Nazrul Islam

RESPONDENT

Date of Decision: Dec. 15, 2025

Acts Referred:

- Code of Civil Procedure, 1908- Section 151, Order 41 Rule 11, Order 39 Rule 4

Hon'ble Judges: Supratim Bhattacharya, J; Sabyasachi Bhattacharyya, J

Bench: Division Bench

Advocate: Sanjib Ahmed, Shamim Halder

Final Decision: Disposed Of

Judgement

Sabyasachi Bhattacharyya, J

1. The present appeal arises against an order whereby an application, although captioned to be under Section 151 of the Code of Civil Procedure but in the nature of mandatory injunction, filed by the plaintiff/appellant, has been allowed by the learned Trial Judge.
2. The plaintiff/appellant filed a suit from which the appeal arises, for declaration that the plaintiff is entitled to ply a vehicle bearing no. WB53C7055 peacefully without any disturbance and/or interference by the defendant and inter alia seeking injunction protecting such possession of the plaintiff with regard to the vehicle.
3. By an ad interim order dated June 3, 2025, the learned Trial Judge had granted injunction restraining the defendant/respondent and/or his men and agent from seizing and/or taking forceful possession of the said vehicle from the possession of the plaintiff without due process of law.
4. However, in violation of the said order, the possession of the vehicle was taken by the appellant.

5. Simultaneously, the appellant filed a half page application seeking vacating of the ad interim order whereas the plaintiff filed the application-in-question under Section 151 of the Code for getting back possession of the vehicle.
6. By the impugned order dated December 3, 2025, the learned Trial Judge granted such mandatory injunction, directing the present appellant to return the vehicle to the defendant/respondent within seven days, since the possession was taken in stark contravention of the ad interim order of injunction passed by the trial court.
7. We do not find any infirmity or illegality in such impugned order, since any action taken in violation of an ad interim order passed by the trial court ought to be negated at the inception.
8. Hence, since the possession of the vehicle was taken in contravention of and in violation of the ad interim order passed by the learned Trial Judge, we do not find any illegality on the part of the learned Trial Judge in directing restoration of possession of the vehicle to the defendant/respondent.
9. Accordingly, FMAT 490 of 2025 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.
10. Consequentially, CAN 1 of 2025 is also dismissed.
11. There will be no order as to costs.
12. However, we make it clear that nothing in this order shall prevent the plaintiff/appellant from filing a proper application under Order XXXIX Rule 4 of the Code of Civil Procedure to vacate the ad interim order dated June 3, 2025 passed by the learned Judge.
13. If such an application is filed, the learned Trial Judge shall decide the same upon giving opportunity of hearing to both parties, in accordance with law, without being influenced in any manner by any of the observations made in the impugned order or by us.
14. We also make it clear that it will also be open to the plaintiff/appellant to file a written objection to the injunction application, and, if necessary, have the main injunction application heard along with the vacating application.
15. It is expected that if a vacating application is filed within a week from date, the learned Trial Judge shall make all endeavour to dispose of the same as expeditiously as possible, if necessary, along with the main injunction application, positively by the end of January, 2026.
16. Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.