

(1945) 08 PAT CK 0016
In the Patna High Court

Brajendra Nath Ghosh and Others

APPELLANT

Vs

Sm. Kashi Bai and Others

RESPONDENT

Date of Decision : 21-08-1945

Acts Referred:

Citation : AIR 1946 Patna 177

Hon'ble Judges : Ray, J; Das, J

Bench : Full Bench

Judgement

Ray, J.—This is a plaintiffs' appeal against the order passed by the Subordinate Judge of Dhanbad in Title Suit No. 16 of 1945 refusing to grant an interlocutory injunction to restrain the defendants from working the disputed coal mines. The plaintiffs in their suit claim the disputed part of the colliery as included in the lands demised as per a registered lease dated 1st Agha 1301 B.S. granted by late Ganga Narain Singh, the then proprietor of pargana Katras, to late Ramdayal Mazumdar. The same landlord by another registered lease dated 21st Kartick 1301 B.S. leased out an adjoining plot of land in mauza Katras for the purpose of extracting coal to one Budhar Nath Roy. It is stated that a dispute having arisen about the intermediate boundary lines between the coal mines of Ramdayal Mazumdar and Budhar Nath Roy, there was Title Suit No. 32 of 1896 instituted by Ramdayal against the said Budhar Roy and Ganga Narain Singh, the proprietor, in the Court of the Subordinate Judge of Purulia. The northern boundary of the plaintiffs' leasehold land was fixed and declared, and the plaintiffs claim that this decree fixing the boundaries is binding as between the parties. The plaintiffs thus claim that the present disputed inclines in the colliery now in possession of the defendants are all within the declared boundaries of the leasehold lands of Ramdayal Mazumdar, their predecessor-in-interest, and, therefore, they have a prima facie title to the same. How the leasehold interest came to be owned and possessed by the plaintiffs being derived from Ramdayal Mazumdar or his successors-in-interest has been elaborately described by the Subordinate Judge in his order under appeal, and it need not be repeated here. The proprietor of mauza Katras granted another lease of some coal lands in the

same mauza to one Mr. Bennet and another in the year 1917 and the said Mr. Bennet, it is said, dug the two disputed inclines and air shafts in the northern portion of the coal land of the plaintiffs during the time of the plaintiffs' predecessor-in-interest, namely, Lalit Mohan Bose and raised some coal without his knowledge and consent. Lalit Mohan having protested against the wrongful acts of Mr. Bennet, the latter quitted the inclines and the shafts and the land encroached upon. According to the plaintiffs, since then these inclines had never been worked for the purpose of raising coal until December 1944, when the defendants for the first time started working out the inclines for the purpose.

2. The defendants, it can be shortly stated, without narrating the history of their acquisition of the rights in question, are the successors-in-interest of Mr. Bennet and another. The plaintiffs, therefore, urged that the defendants are mere trespassers having no right to the inclines, air shafts and also the lands below them which are in dispute in this case as they form a part and parcel of their leasehold interest having been given up in their favour as stated above. The defendants, on the other hand, contend that the said inclines and air shafts have all along been in possession of their predecessors-in-interest including Mr. Bennet and his partner, the land in dispute being within their lease, that neither the plaintiffs nor their predecessor-in-interest have ever been in possession of the same, and that the plaintiffs, taking advantage of the fact that defendant 1 is a pardanashin lady and is an absentee, wrongfully encroached upon the said land and started working out certain shafts for extracting coal beneath the shafts which the defendants had started working out since December 1944, and that they anticipating the defendants' contemplated suit against them for their act of trespass, filed the present suit which is not a bona fide one. The question at issue, therefore, is whether the lands in dispute are within the boundaries of the respective leases of the parties on which they base their title.

3. It is admitted on both hands that prior to December 1944 both the parties or their predecessors-in-interest had stopped working the coal mines respectively belonging to them on account of dullness of coal market. The plaintiffs have produced no document to show that Mr. Bennet had vacated the in-clines in dispute on protest of Lalit Mohan Bose as alleged by them in their plaint. The plaintiffs' suit is in substance a suit in ejectment. The plaintiffs' on bringing this suit moved the learned Court below to pass an order of interlocutory injunction against the defendants restraining them from working out the disputed mines.

4. The main allegations on which the plaintiffs based the prayer for the temporary interference are: (1) that the defendants, according to the plaintiffs' information, had been fobbing and reducing the pillars in the mine and have been, cutting and removing coal in a reckless and unworkmanlike manner giving rise to every probability and apprehension of a serious subsidence and collapse which may ultimately lead to destruction of the property in dispute; (2) that the defendants have not got sufficient properties under the jurisdiction of this Court and there is no chance of damages, if any, being recovered from them; (3) there

is a great difficulty in assessing damages as the quantity of coal extracted cannot be easily ascertained; in short the plaintiffs will suffer irreparable injury in the event of injunction being withheld; and (4) that the defendants being guilty of wantonly wrongful act of trespass into the properties of the plaintiffs, and their possession not being based upon any bona fide claim of title to the same, they should, at all events, be restrained from further continuance of their wrongful act.

5. The defendants, on the other hand, contend, (1) that the plaintiffs have not shown to have a prima facie title to the disputed property; (2) that the defendants and their predecessors-in-interest have been, at all material times, since the creation of the lease and the inclines and air shafts, in possession of the properties in dispute to the entire exclusion of the plaintiffs; (3) that the defendants are working the mines, and removing coal, in moderate quantity, according to the most scientific and approved methods of mining, with due regard to the safety and future working of the mines, and in strict accord with the provisions of the Indian Mines Act, and the rules and regulations made thereunder; (4) that they have invested large sums of money for working out the mines, and, therefore, in the event of their being restrained from working them out, they will be subjected to irreparable loss; (5) that they have sufficient means worth about 5 lakhs consisting of house properties and various kinds of other properties including collieries, and, damages, if any, are very easily recoverable from them; (6) that this is not a fit case in which an interlocutory order of injunction should be granted inasmuch as the plaintiffs" in the event of their establishing their legal title, can be sufficiently compensated by damages, and (7) that the balance of convenience is in their favour. The learned Subordinate Judge rejected the plaintiffs" prayer for injunction upholding the contentions of the defendants.

6. Hence, this appeal by the plaintiffs. The learned Subordinate Judge went wrong while dealing with the point of prima facie title, in his following observation:

Now, from these facts I am not prepared at this stage to accept the contention that the plaintiffs have got a prima facie title. Simply the filing of a case with certain allegations is no ground to accept the point of prima facie title. The plaintiff in such a case must make out a plain case (vide Halsbury's Laws of England, Volume 18, 110, 1935 Edition). In my view there is no such case here at present as the plaintiffs" right will have to be established and decided before it can be said that he has got a prima facie title.

7. Mr. B.C. De who appears for the appellants contends--with which contention I entirely agree--that the learned Subordinate Judge is wrong in holding that in order to make out a prima facie case necessary for granting an interlocutory injunction, the plaintiff should establish his title. But it is enough, for the plaintiff for granting an interlocutory injunction if he can show that he has a fair question to raise as to the existence of the right which he alleged and can satisfy the Court that the property in dispute should be preserved in its present actual

condition until such question can be disposed of. In interfering by an interlocutory injunction, the Court, in general, does not profess to anticipate the determination of the right but merely gives it, if, in its opinion, there is a substantial question to be tried, and if, till the question is ripe for trial, a case has been made out for the preservation of the property, in the meantime, in status quo. He is not required to make out a clear legal title but has to satisfy the Court that he has a fair question to raise as to the existence of legal right, and that there are substantial grounds for doubting the existence of the alleged legal right the exercise of which he seeks to prevent. It is no less important to observe that the Court must also, before disturbing any man's legal right, stripping him off any of the rights with which law has clothed him, be satisfied that the probability is in favour of his case, ultimately failing in the final issue of the suit. It has to be, at the same time, borne in mind that a mere existence of a doubt as to the plaintiff's right to the property does not itself constitute a sufficient ground for refusing an injunction though it is always a circumstance which calls for the attention of the Court. In this view of the matter, it cannot be said that the plaintiff has not been able to show that he has raised a fair and substantial question which has to be tried.

8. The plaintiff, for this purpose, has relied upon the judgment of the Title Suit No. 32 of 1896 which was tried analogously with Title Suit No. 48 of 1896. It may be observed at the outset that the judgments and decrees of those suits are not binding between the parties in the sense of their being *res judicata*, because in that case the plaintiff's predecessor in interest was claiming certain specific lands as appertaining to his leasehold interest with which the present defendants or their predecessors-in-interest neither had nor have anything to do. Secondly, the defendants derive their interest from the lease of Mr. Bennet and another which was not then in existence, and, therefore, there could not have been any dispute relating to the boundaries between Ramdayal's lease and Bennet's lease, but at any rate that judgment is a piece of evidence for the plaintiff. It is noticeable that the proprietor of Katras, who was also a pro forma defendant in Ramdayal's suit, supported his case as to his lease including Charridhar Kanali. The Court, however, in adjudicating Ramdayal's title to the lands then in dispute came to the conclusion:

It may be that the boundaries given in Ramdayal's patta cover the whole of the south-western portion of Mouza Katras. But when the lands settled with Bhudhar were admittedly taken by the Raja (the proprietor of Katras) from Ramdayal and that for a consideration, they must be held to have been excluded from his patta. The boundaries taken by themselves would cover Charridhar Kanali as well For Ohokabad is mentioned in describing the northern boundary of the land settled with Ramdayal and a large portion of Charridhar Kanali would be comprised in his tenure.

9. With regard to the southern boundary of Bhudhar's lease, the Subordinate Judge in that case finds:

It is clear that the Dangas appertaining to Chokabad and Charridhar Kanali were settled by the Rajah with Bhudhar. The question then is whether the Danga on the south of Charridhar Kanali appertains to it. From the evidence and probabilities of the case I have no hesitation in holding that it does. Of course there has been much hard swearing on the point but the truth has oozed out in spite of the efforts of the Raja and Ramdayal to suppress it. The Baja admits that the boundaries of the Katras lands as given in the patta are correct. The following is the southern boundary of the Katras land as given in the patta, namely, the farthest extremity of Jama Jore and Charridhar Kanali and hillocks. A reference to the Commissioner's map will at once show that this boundary covers the entire baid and Danga in dispute painted yellow on the south of Charridhar Kanali. The meaning of the sentence is that the southern boundary extends to the farthest limits of Jama Jore and Charridhar Kanali up to the hillocks. Surely the hillocks would not have been mentioned as forming the boundary if it had been intended to exclude the baid and Danga aforesaid from the defendants' (Bhudhar's) tenure. The hillocks are stumbling blocks in the way of the Baja's and Ramdayal's contention.

10. In the result, therefore, the hillocks to the south of Charridhar Kanali and Chokabad were held to be the boundary between the leases of Bhudhar and Ramdayal. It is clear, therefore, that the hillocks are the northernmost boundary of the lease in favour of the plaintiffs' predecessor-in-interest. The disputed lands on which the defendants are working out the colliery in the inclines dug by Mr. Bennet lie, according to the plaintiffs, to the south of the hillocks and the defendants are not in a position to contradict this. Further, according to the finding in that case, though the northern boundary of Ramdayal's lease taken by itself would cover Charridhar Kanali as well, Chokabad being described in the said lease as the northern boundary of the land, the disputed lands were adjudicated in favour of Bhudhar on the ground that by consent of Ramdayal and the proprietor, they were taken out from Ramdayal's lease to be included in Bhudhar's lease. But this consideration will not apply to the lease of Mr. Bennet which, comes into existence in the year 1917, and it is no part of the defendants' case that any other lands included within the boundaries of Ramdayal's lease were taken out with his consent or that of his successor-in-interest in order to be given to Mr. Bennet. Mr. De has shown to us, in the mining survey map, that the lands lie within the boundaries as declared in the above-mentioned suit of 1896. We do not propose to come to any definite finding so as to anticipate the determination of the dispute between the parties which has to be tried, out by the Subordinate Judge in regular course. There is, however, a lacuna in the argument of Mr. De and it is this that he does not produce Bennet's lease so as to enable us to compare the northern and southern boundaries of the respective leases. In its absence it is difficult to arrive at any certain conclusion, but we are satisfied that it cannot be said that the plaintiffs have not substantiated that their claim is a bona fide one and their suit raises a fair and substantial question to go to the trial. We are satisfied, therefore, that the

plaintiffs have shown a *prima facie* case, but in our view that is not enough for them to secure the interlocutory order of injunction. At the same time it can be very safely laid down in this case, however, that the plaintiffs have not been able to satisfy that there are substantial grounds for doubting the existence of the alleged legal right in the defendants, the exercise of which they seek to prevent. This, by itself, is a stumbling block in the plaintiffs' way.

11. There are various other considerations which, in my view, fully disentitle the plaintiffs from getting the relief of interlocutory injunction. They can be summarised as follows: (1) that the plaintiffs must show that in the event of withholding the relief of temporary injunction, they will suffer an irreparable injury; (2) that this is a case in which in the event of their success in the suit in establishing their alleged legal right the encroachment whereof is complained against, they will not have the proper remedy in being awarded adequate damages; (3) that the plaintiffs must make out that in taking into consideration the comparative mischief or inconveniences to the parties, the balance of convenience is in their favour, or, in other words, that their inconvenience in the event of withholding the relief of temporary injunction will in all events exceed that of the defendant in case he is restrained. This has to be borne in mind that this last condition can, under circumstances, be so adjusted as not to deprive either party of the benefits he is entitled to in the event it turns out that the party in whose favour the order is made shall be in the wrong, by imposition of terms on one party or the other as condition of either granting or withholding the injunction. Lastly, the plaintiffs have to show a clear necessity for affording immediate protection to their alleged right or interest which would otherwise be seriously injured or impaired. I will now proceed to consider *seriatim* whether in view of the particular facts and circumstances of this case, and in applying the aforesaid principles governing the granting or refusing an interlocutory injunction to them the plaintiffs are entitled to succeed.

12. Point No. 1--Irreparable injury does not mean injury that is not physically capable of being remedied but it is such an injury which could not be adequately remedied by damages. Inadequacy of remedy by damages means that the damages obtainable by law are not such compensation as will in effect, though not in specie, place the parties in the position in which they formerly stood. In the present case the property in dispute is a coal mine, and its utility consists in extracting coal in scientific and workmanlike manner, without any permanent detriment to it, and to put them in the best available market, for the purpose of gain. The defendants have said that they are working the mine in workmanlike and scientific manner under the rules and regulation of the Mining Act, and under the supervision of the inspectors functioning thereunder. The plaintiffs did not seriously challenge it. It cannot be gainsaid that the present is the best market for fetching good prices for coal. It may be remembered in this connection that previously both parties had stopped extracting coal on account of dullness of market. Now, in the event of the plaintiffs establishing their legal right, they may be sufficiently compensated for being kept out of possession of the mines in

recovering the price of coal with interest from the defendants in the shape of damages. Nothing has been shown to us how award of damages is not full and complete, remedy of the plaintiffs' grievance. The allegation advanced to show that there is no likelihood of damages being recovered from the defendants is that they have no properties within the jurisdiction of this Court, while the defendants have sworn to say that they have buildings and other house properties in Dhanbad besides collieries and coal mines within this province worth about five lakhs. This has not been controverted to the satisfaction of the Subordinate Judge. Nor has it been suggested that there will be multiplicity of suits for recovery of such damages, because in this suit the plaintiffs can get that relief along with declaration of their title and recovery of possession.

13. The plaintiffs further said that there will be difficulty in ascertainment of the quantity of coal extracted by the defendants. In this connection, it is to be borne in mind that under the present law the defendants have to submit monthly returns of their output of coal from the mines to the mining department of the Government, and the learned Subordinate Judge has laid it down, as a condition for withholding the injunction, that the defendants will submit six monthly returns to the Court of the coal extracted by them which order we propose to modify by saying that instead of six monthly returns, the defendants will have to submit monthly returns of the coal taken out by them from the disputed mine. That being done, any objection on the score of ascertainability or otherwise of the quantum of coal will vanish. Nor have the plaintiffs shown that coal is being worked out in unscientific manner. In my view, therefore, the plaintiffs have not succeeded in convincing the Court that this is a case in which injunction being withheld, they will suffer irreparable injury.

14. Point No. 2--Mr. De contends that the remedy of damages is no ground for refusing an injunction and in support of his contention, he has, cited the authority of *Shelfer v. City of London Electric Lighting Co.* 1 Ch. D. 287. The passage referred to in the judgment of A.L. Smith L.J. in support of his contention reads:

Many Judges have stated, and I emphatically agree with them that a person by committing a wrongful act (whether it be a public company for public purposes or a private individual) is not thereby entitled to ask the Court to sanction his doing so by purchasing his neighbour's right, by assessing damages in that behalf, leaving his neighbour with the nuisance, or his lights dimmed as the case may be. In such cases the well-known rule is not to accede to the application, but to grant the injunction sought, for the plaintiff's legal right has been invaded, and he is *prima facie* entitled to an injunction.

15. This case is very clearly distinguishable on the following grounds. It was a case in which the defendant was committing a perpetual nuisance in carrying certain trade near the premises of the plaintiffs, thereby causing him inconvenience which can best be described in the words of that learned Judge himself, viz.,

Kekewich J. has found, and these findings are unappealed against, that the defendants were at the date of action brought, creating a continuing nuisance by means of vibration, noise and steam which were produced by the working of their plant and machinery, whereby not only annoyance, inconvenience and personal discomfort were occasioned to the plaintiff, his wife and daughter in the occupancy of their house, but the two latter had been, by the nuisance, made actually ill. There was also evidence that the defendants, by the erection of their works, had let down the buildings of the plaintiff, which consequently cracked and that the continuous vibration which subsequently arose from the user of their plant and machinery was constantly increasing and aggravating these cracks.

16. In relation to this state of things the learned Lord Justice states:

It is here that I cannot agree with the learned Judge. Because the plaintiff does not suffer a money loss, and is only driven out of his upper floors, and has only to make arrangements for sleeping elsewhere he, according to the Judge, is not entitled to stop the continuance of the nuisance, but damages are a very fair compensation.

17. The same learned Judge in the same page has laid down what he calls a good working rule, namely that

(1) if the injury to the plaintiff's legal rights" is small, (2) and is one which is capable of being estimated in money, (3) and is one which can be adequately compensated, by a small money payment, (4) and the case is one in which it would be oppressive to the defendant to grant an injunction: then damages in substitution for an injunction may be given.

18. It is impossible to lay down any rule as to what, under different circumstances of each case, constitutes small injury or one that can be remedied in money, or what is a small money payment or an adequate compensation, or what would be oppressive to the defendant. As I have shown above, this is a fit case in which not only the plaintiffs' injury, if any, can be adequately compensated by payment, but that it is pre-eminently a case in which it would be oppressive to the defendant to grant an injunction. In view of the financial condition of the parties and the length of time for which the subject, matter of the suit may remain unadjudicated in the trial Court, it cannot be said that the money payment that is to adequately compensate the plaintiffs' alleged injury will be so heavy as to be beyond the means of the defendants to pay. As I have said above it has not been established by the plaintiffs that the defendants are clearly in the wrong and have no bona fide and fair legal right in support of their action. In this connexion it may be observed that the defendants and their predecessors-in-interest being in possession of the disputed property, have invested large sums of money for digging inclines, making air shaft and fitting machines and machinery for extracting coal in a scientific and workmanlike manner. Truly, it would be oppressive to restrain the defendants from working

out the mine. It can also be seen very clearly that to stop the working at the time when the market for coal is very brisk will not do any good to the plaintiffs in the event of their successfully establishing their legal right.

19. Mr. De further relied upon the case in *Jones v. Pacaya Rubber and Produce* (1911) 1 K.B. 455. That case also is clearly distinguishable on the simple ground that it was a case of complete extermination of the property in dispute. In that case the subject-matter was one hundred shares that had been allotted to the plaintiff of that case, on his application for it on part payment of the share money. The plaintiff disputed that he had been led into this purchase by certain misrepresentations, and that he was, therefore, entitled to withdraw from the transaction on refund of the money paid by him, while the defendants gave him an ultimatum that unless he complied with the call for the balance of the share money by a certain date, he would forfeit the shares. The plaintiff, in instituting the suit for adjudication of his right to cancel the purchase and get back the money paid towards the price, wanted an injunction to restrain the defendant company from forfeiting the shares. In such a case it was held that the property concerned should not be allowed to be completely destroyed, and considering the relative convenience of the parties, it was held that it was more in the interest of both parties that the forfeiture should be restrained. It was held that in case the plaintiff succeeded in his suit, well and good, and if he did not succeed, he would not have the benefit of paying the balance of the consideration and enjoying the shares. The theory of comparative inconvenience and mischief works differently in different cases according to the facts and circumstances of each particular case. In my view, therefore, that is no authority for the proposition contended for by Mr. De that in no circumstances award of adequate damages would be considered to be full and complete remedy but that interference by interlocutory injunction should be held to be the rule irrespective of the circumstances of the case.

20. He further relied upon the case in *Israil v. Shamsheer Rahman* AIR 1914 Cal. 362. That case, while laying down that *prima facie* title means a fair and substantial question to be decided as to what the rights of the parties were, lays down that in deciding whether interference by interlocutory injunction may be made by the Court, the balance of convenience should be examined to see if it is desirable that status quo should be maintained, or the defendants should be allowed to continue to alter the character of the land. That was a case as between two cosharers in which one of them, that is the defendant, was altering the character of the land by erecting substantial buildings thereon. The difficulty in that case would be to adjust between the parties at the time of the partition. Besides, in that case the defendant's conduct was such that their Lordships held that he was not only entitled to invite the Court to withhold injunction but that he was to be directed that the building already erected should be taken off.

21. The three decisions relied upon by Mr. De are not applicable to the facts of the present case, nor do they lay down any principle at variance with what I have

said above in my summary of the points to be considered in determining whether the plaintiffs are entitled to the relief of interlocutory injunction against the defendants. One is a case of continuing nuisance resulting from a wantonly wrongful act of the defendant, the second was a case of complete destruction or wiping out of the subject-matter in dispute; and the third is a case of altering character of the disputed property. I shall, therefore, hold that this is a fit case in which, in the event of the plaintiffs' success, award of compensation and damages would be full and complete remedy and interference by a temporary injunction is not called for.

22. Point No. 3.--Let me consider in whose favour is the balance of convenience. In this connection the plaintiffs have to show that their inconvenience in the event of withholding the relief of temporary injunction will in all event exceed that of the defendants, and" they have further to show that their such inconvenience will outweigh what they have to suffer, if the injunction is granted. In case injunction is granted, the result will be that the working out of the colliery will be stopped. By the time the litigation is over, the present coal market may not be there. It is more likely that market will fall as soon as war conditions disappear. In such circumstances, the plaintiffs even in the event of their success will be a great loser, because they cannot call upon the defendants to pay them damages. On the other hand, if injunction is withheld, the defendants work out the mine and derive profits, those will be of the plaintiffs in the event of their success coming to them in the shape of damages or mesne profits. As I have said above, there is no multiplicity of suit apprehended for ascertaining the damages. There will be no difficulty in ascertaining the amount of coal extracted and the market rate of coal, nor will there be any difficulty in recovering the damages ascertained from the defendants who, it has been found above, are men of substance, nor is it said either they have done or are bent upon doing anything to defeat or obstruct execution of the decree which may eventually be passed against them. In my view, therefore the balance of convenience is in favour of withholding the relief of interlocutory injunction. For the purpose of removing any difficulty for ascertaining damages, I am imposing certain terms on the defendants in addition to what has been laid down by the learned lower Court.

23. Lastly, as I have observed above, the plaintiffs have to show a clear necessity for affording immediate protection to their alleged right or interest which would otherwise be seriously injured or impaired. It has already been held by me that this is neither a case of destruction nor, waste nor alienation of the subject-matter in dispute, nor is it a case in which the defendants are guilty of making any efforts to obstruct or delay the execution of any decree that might eventually be passed. Therefore, on this consideration too, there is no clear necessity of any protection by temporary injunction sought for by the plaintiffs. In my view, therefore, the plaintiffs' application for temporary injunction has been rightly dismissed.

24. In order to further obviate the apprehended difficulties in ascertaining the amount of coal extrated from time to time, I should direct that the defendants must produce in Court monthly returns of coal derived from the disputed mine, and that they will keep regular accounts of their business so as to make it easy to ascertain the profits derived by them in the event of the plaintiffs succeeding in establishing the legal right which they have claimed in the suit. These should be considered as conditions for withholding the relief of temporary injunction.

25. I entirely agree with the learned Subordinate Judge that in case the plaintiffs satisfy him about the falsity of the defendants' assertion that they have properties worth Rs. 5 laks in this province, the defendants will be called upon to furnish security for due discharge and satisfaction of any decree that might be passed against them in the suit.

26. Holding, as I have done, that this is not a fit case in which the Court will be justified in exercising the jurisdiction of granting relief of interference by interlocutory injunction, I dismiss this appeal subject to the modification mentioned above.

27. In view of the circumstances of this case, I order that each party will bear its own costs of this appeal. The Sub-ordinate Judge is asked to expedite the hearing of this case.

Das, J.

I agree.