

Title Suit No. 630 of 2026
CNR No. WBSP02-001375-2026

Contd...../Order no. 2 dated 04.06.2026

Ld. advocate for plaintiff has moved the put up petition.

Put up is allowed.

Ld advocate representing plaintiff has moved the temporary injunction application under Order XXXIX Rule 1 and 2 read with Section 151 CPC dated 04.06.2026.

Issue notice upon defendants to show cause as to why the prayer for temporary injunction shall or shall not be granted to plaintiff.

Ld. advocate for plaintiff has argued that this is a suit for partition with declaration and injunction in suit property. Suit property belonged to Gopal Chandra Roy and during his lifetime, he executed Deed of Sale and sold out suit property in favour of one Binoyendra Nath Dubey in the year 1948 and during his enjoyment and possession of suit property, Land Acquisition Proceeding were initiated as per proposal of Refuge, Relief and Rehabilitation Department. The said Department had trying to take forcible possession of suit property with making any award for which Binoyendra Nath Dubey approached Hon'ble High Court, Calcutta by filing a Writ of Mandamas and Hon'ble High Court, Calcutta was pleased to restrain respondents from taking possession of suit property without making any award.

Ld. advocate further argued that the said Department did not pay any compensation, not took possession of suit property and the suit property remains de requisitioned and two daughters of Binoyendra Nath Dubey, inherited the suit property on demise of Binoyendra Nath Dubey and each of them inherited undivided half share of suit property measuring 3.80 acres out of 7.60 acres. Ld. advocate contended that one of the daughter namely Diptimoyee Devi alias Meera Tiwari, mother of plaintiff executed her last Will in the year 1992 in favour of plaintiff, her only son and under Indian Succession Act, Grant of Probate of the Will dated 5th December, 1992 is not mandatory.

Ld. advocate contended that around February, 2008, defendant no. 2, an authorized agent of M/s, Dinodia Infrastructure Private Ltd., approached plaintiff's mother and offered to purchase her undivided half share in suit property against consideration of Rs. 16,00,000/- (Rs. Sixteen lakhs) vide a Demand Draft which was duly encashed by plaintiff's mother though, no formal Agreement for Sale was signed and executed between them and M/s, Dinodia Infrastructure Private Ltd., has now merged with defendant no. 1 company.

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Ld. advocate submitted that defendant no. 2 further promised to purchase Schedule "B" property upon payment of balance consideration prior registration of Sale Deed and asked plaintiff's mother to execute a Special Power of Attorney in his favour, if needed and subsequently, defendant no. 2 took signature of plaintiff's mother on some blank pages and also on Non- Judicial Stamp Paper but without registration of said Special Power of Attorney, defendant no. 2 only handed over signed draft copy of the same to plaintiff's mother and thereafter, defendant no. 2 did not appear.

Plaintiff's mother died on 5th August, 2010 and her sister who was a co-owner of "A" Schedule property together with plaintiff's mother died on 25th June, 2006 leaving two sons namely Manoj Kumar Mishra and Goutam Kumar Mishra.

In the year 2022, plaintiff, through Ld. advocate conducted search regarding present status of suit property and Ld. advocate made RTI Application seeking information from defendant no. 3 and plaintiff came to know that defendant no. 1 acquired 3.80 acres of land in suit plot and further came to know that Manoj Kumar Mishra and Goutam Kumar Mishra sold out their inherited undivided interest in Schedule "A" property in favour of defendant nos. 5 and 6 but plaintiff's mother had never executed any Power of Attorney in favour of defendant no. 2 to execute Deed of Conveyance being no. 7461 of 2008 and thus, no title is passed in favour of defendant no. 1 in respect of suit property and defendant nos. 1, 2, 3, 5 and 6, in collusion with each other are trying to grab entire compensation of plaintiff.

Ld. advocate argued that plaintiff has a good prima facie case and defendants, who are trying to transfer, alienate the suit property and to get the payment of compensation in respect of suit property, if not restrained, plaintiff will be highly prejudiced.

At the time of hearing, Ld. advocate has produced documents vide *firisti* in support of the case of plaintiff.

Seen the report of Sheristadar of "No caveat filed in respect of the suit till 11.30 am."

Heard,

Considered,

Plaintiff has sought for Partition of his alleged half share along with proforma defendants in suit property with declaration that alleged Unregistered Special Power of Attorney is void and alleged Sale Deed being no. 7461 of 2008 is void and also for declaration of half share of compensation in respect of "B" Schedule property.

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Today, plaintiff filed an application for temporary injunction and seeking for ad-interim injunction order against all the defendants but plaintiff has instituted this suit on 06.05.2026, almost prior one month which suggested that there is no such urgency in seeking an ad-interim order if injunction, otherwise, plaintiff would have come earlier with his prayer for injunction.

Apart from this, it appears from the plaint that there exists a Registered Sale Deed in favour of defendant no. 1 and in favour of defendant nos. 5 and 6 whereas, plaintiff, has failed to show his prima facie right in respect of suit property and according to plaintiff, in the year 2022, plaintiff, through Ld. advocate conducted a search regarding present status of suit property and then plaintiff came to know about the status of suit property whereas, his mother, through whom, he is claiming his interest over suit property died long back in the year 2010. It suggested that neither plaintiff has a prima facie case nor balance of convenience and inconvenience is in favour of plaintiff and accordingly, prayer for ad-interim order of injunction against defendants cannot be allowed

Hence, it is,

O r d e r e d,

that the prayer for ad-interim order of injunction is considered and rejected.

Return the documents as filed to plaintiff.

BC-I to comply.

To date i.e. **17.08.2026** for S/R.

Upload the order in CIS.

D/C by me.

Civil Judge (Senior Division)
4th Court, Alipore, South 24 Parganas
JO Code WB01004.

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