

In the Court of the Addl. District Judge, 3rd Court, Barrackpore, North 24-Parganas

Misc. Appeal - 51/2026

Present : Sri Uday Rana

Addl. District Judge, 3rd Court, Barrackpore.

Order No. 02

15.05.2026

Received the case record from Ld. ADJ, 1st Court, Barrackpore for disposal.

Noted in the Register.

There is a note of the filing Court that no caveat is pending.

The application under Order 39 Rule 1 & 2 C.P.C. read with section 151 CPC is moved by Ld. Advocate of the appellant **praying for an order of ad-interim injunction on the grounds of urgency.**

This is an appeal under Order 43 Rule 1 (r) CPC in which the appellant is aggrieved by the impugned order passed by Ld. Trial Court, Barrackpore in charge by which the prayer for **ad-interim injunction was refused.**

Ld. Advocate for the appellant submits that the defendant No. 1 without prior sanction of approval of the building plan has started constructions of the suit property with certain cantilever projection and box-like extensions by encroaching the western boundary adjoining the plaintiff's premises. The plaintiff has approached the concerned municipality who has taken cognizance of the unauthorized constructions and issued stopped work notice to the defendant No. 1 but again in violation of the said notice the defendant No. 1 has resumed the construction and is aggressively continuing with the illegal construction by taking advantage of the present political situation.

Perused the impugned order of Ld. Trial Court as well as the documents filed by the plaintiff on this record. It appears that Ld. Trial Court has not taken into consideration the urgency as pleaded by the plaintiff which actually existed. However at this stage it appears to this Court that when the concerned municipality has already issued stop construction order, it can be presumed that the said construction as carried by the defendant No. 1 be illegal in nature.

In such circumstances, when there is a prima facie case and urgency besides balance of convenience and inconvenience in favour of the plaintiff, then if the defendant no. 1 is not restrained by an ad-interim order, the plaintiff will suffer irreparable loss and injury which cannot be compensated by monetary terms.

Hence, the prayer for ad-interim injunction over the suit property is allowed in the following terms.

Respondent No. 1 / Defendant No. 1 and men his agents are hereby restrained by this ad-interim rule from raising any further construction, extension or cantilever projections over the schedule "B" property and from changing the nature and character of the suit property till the hearing of the petition for temporary injunction in presence of both sides. The appellant is hereby directed to cause service of notice along with copy of this order to the other side positively by the next date fixed and make necessary compliances as per the requirement of Order 39 Rule 3 (a) (b) C.P.C. in this context.

To 04.07.2026 for S/R and A/D.

Dictated. & corrected by me

Addl. District Judge, 3rd Court,
Barrackpore

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Barrackpore