

Title Suit No. 431/2025

Order no. 02 dt. 05.12.2025.

The record is put up today.

Later

Put up is allowed.

Ld. Lawyer for the plaintiff prays for moving the injunction application.

It transpires from the report of the Sherestadar, that there is no caveat pending in this case.

Learned Advocate of the plaintiff has moved an application U/O 39 R 1 & 2 read with Sec. 151 C.P.C praying for a temporary order of injunction restraining the defendants from not to disturb the peaceful possession of the plaintiff and not to change the nature and character of the suit property by raising construction.

Perused the plaint, instant application and materials on record.

Heard the Ld. Advocate for the plaintiff.

On careful perusal of the case record it appears that a prima facie case is made out against the defendants to go for trial. Hence, issue notice upon the defendants to show cause within fifteen days of the receipt thereof as to why the prayer of the petitioner against them shall not be allowed.

Also heard the prayer of the plaintiff for ad interim injunction.

The fact of the plaintiff's case is that the suit property originally belongs to Gitarani Saha. Gitarani Saha died leaving behind only daughter Tapati Sadhukha and said Tapati Sadhukha became the owner of the suit property left by her mother Gitarani Saha and during possession said Tapati Sadhukha transferred her entire share to Anowar Sk by way of registered deed of sale being no. I-9869/96 dated 23.09.1996. During possession said Anowar Sk transferred his entire share in favour of minor Rabiul Alam Sk by way of registered deed of hebanama being no. I-7475/02 and delivered possession in his favour. It is pertinent to mention that at the time of execution and registration of the said deed of hebanama being no. I-7475/02 the said Rabiul Alam Sk was a minor and the deed had been executed and registered in the name of Rabiul Alam Sk represented by his guardian as well as his father namely Nur Haque Sk. The donor Anowar Sk, the vendor of the schedule property, was the grandfather of the plaintiff namely Rabiul Alam Sk and the schedule property was executed and registered by Anowar Sk to his grand son out of love and affection and the said deed was written by deed writer Haquedar Ali Biswas of Pradip Danga and after going through the contents of the said deed the executant Anowar Sk put his signature in presence of attesting witness and deed writer and registered the said deed on 25.09.2002 after compliance of all formalities. The said Anowar Sk voluntarily executed the said deed and registered in favour of Rabiul Alam Sk and since then Rabiul Alam Sk has been possessing the suit property through his father namely Nur Haque Sk as the said Rabiul Alam

Sk was the minor at the time of execution and registration of the said deed. The plaintiff is still alive and said Nur Haque Sk looked after and maintain the schedule property and having no disturbance of the peaceful possession of the plaintiff due to ignorance the plaintiff does not record his name in LR ROR. On the other hand, defendants in collusion with officer and office staffs of the B.L. & L.R.O. have recorded their names in LR ROR, so the LR ROR is erroneous. The defendants have expressed on 25.11.25 that they got the suit property but Anowar Sk had no transferable right on the said Anowar Sk had already be gifted the schedule property to the plaintiff on 25.09.2002 being deed no. I-7475/02 so the defendants produce any deeds are all fictitious, concocted, void and not binding upon the plaintiff. The defendants have no right, title, interest and possession over the suit property. The defendants are trying to disturb the peaceful possession of the plaintiff and to change the nature and character of the suit property by raising construction. Hence this petition.

In support of his claim the plaintiff has filed some documents in his favour including photocopy of LR khatian being no. 590 Kri and photocopy of deed of sale being no. 9869/1996 and photocopy of information slip in respect of dag no. 234.

After perusing the materials on record this Court is prima facie satisfied that plaintiff has interest and possession over the suit scheduled property. As the plaintiff has prima facie satisfied the Court regarding his possession over the suit property, so the same should not be disturbed without due process of law.

On consideration of the facts and circumstances in this case and the balance of convenience and inconvenience, this Court finds that there is a degree of urgency in this matter and delay may defeat the very object and purpose of granting injunction in this case. Considering all these, the Court finds it proper to allow the prayer for ad interim injunction for ends of justice.

Hence, it is,

ORDERED

That the prayer for ad interim injunction is allowed at this stage.

The defendants are hereby restrained from changing the nature and character of the suit property till 03.01.2026.

Plaintiff to comply the provision under Order 39 Rule 3 (a) and (b) C.P.C at once.

To date for S.R., notice and further order.

(Prarthana Banerjee)

D & C by me.

Civil Judge (Jr. Divn.), 1st Court

Berhampore, Msd