

Misc.(J) Case831/2026
i/c with T.S. No. 437/2026

DISTRICT: - Kamrup (M), (Assam).

In the Court of: - Civil Judge (Sr. Div.) No-2.

Present: - Naguib Ahmed, A.J.S

Date	Order	Sign
04.07.26	1 The instant Misc (J) Case arose out of a petition vide petition No. 535/26 filed by the plaintiff/petitioner under Order XXXIX Rules 1 and 2 read with Section 151 CPC. 2 <u>Petitioner's case:-</u>The plaintiff/petitioner submitted that he is the lawful owner and possessor of a contiguous plot of land measuring 2 Kathas situated at Village Udalbokra, Mouza Beltola, Dispur Revenue Circle, Kamrup (M), Assam, having purchased the same from the original pattadar through two registered sale deeds executed in June and July, 1985. Upon purchase, possession of the land was delivered to the petitioner, who has remained in continuous, peaceful and uninterrupted possession thereof and constructed a residential house on the suit land. Although the petitioner applied for mutation immediately after purchase, the revenue authorities failed to mutate his name. Due to prolonged absence of the plaintiff from Assam on account of business and health reasons, the petitioner could not pursue the matter. Upon returning and intending to construct a permanent RCC house, he initiated mutation proceedings afresh, during which he discovered that, pursuant to a partition order dated 02.09.2011, a substantial portion of his purchased land	

	had been wrongly included in a new dag and patta standing in the name of Opposite Party No. 1. The petitioner thereafter approached the revenue authorities seeking correction of the revenue records. During the pendency of those proceedings, Opposite Party No. 1 initiated proceedings alleging illegal possession by the petitioner, which allegations were duly contested by filing a written statement. The petitioner further submitted that on 20.06.2026, some persons allegedly acting on behalf of Opposite Party No. 1 attempted to forcibly dispossess the petitioner by taking advantage of the erroneous revenue entries. Though the attempt was resisted, the petitioner continues to face a genuine apprehension of further interference and forcible dispossession.	
3	<u>Petitioner's prayer:-</u>The plaintiff/petitioner prayed for temporary injunction and ex parte ad-interim injunction today restraining the OP/defendant No.1 from from trespassing and interfering with the petitioner's peaceful possession and enjoyment over the suit land.	
4	<u>Discussion and Decisions:-</u>I have gone through the main suit including the document annexed with the plaint. Document No.1 and 2 which are the Sale-Deeds show that the land was purchased by the plaint from the original pattadar.	
5	The documents annexed with the plaint i.e. jamabandi, electricity bill, GMC payment receipt etc. <i>prima facie</i> at this stage show that the plaintiff is in possession over the suit-	

	land. The plaintiff apprehends that the defendant No.1 may attempt to dispossess the plaintiff from the suit property. It seems that the plaintiff has the cause-of-action to prefer the present suit. Cause-of-action is a bundle of facts giving the plaintiff a right to relief, it must include the act done by the defendant. 6 Presently at this stage and without engaging in formal validation of the documents or the substantive merit of the case, the Court identifies a <i>prima facie</i> case supporting the petitioner. 7 The principles governing grant of ex-parte injunction have been elaborated in <i>Morgan Stanley Mutual Fund v. Kartick Das</i>, (1994) 4 SCC 225 at page 241, wherein Hon'ble Court has laid down following guidelines:- "36. As a principle, ex parte injunction could be granted only under exceptional circumstances. The factors which should weigh with the court in the grant of ex parte injunction are-(a) Whether irreparable or serious mischief will ensue to the plaintiff; (b) Whether the refusal of ex parte injunction would involve greater injustice than the grant of it would involve; (c) The court will also consider the time at which the plaintiff first had notice of the act complained so that the making of improper order against a party in his absence is prevented; (d) The court will consider whether the plaintiff had acquiesced for some time and in such circumstances it will not grant ex parte injunction; (e) The court would expect a party applying for ex parte injunction to show utmost good faith in making the application. (f) Even if granted, the ex parte injunction would be for a limited period of time. (g) General principles like prima facie case, balance of convenience and irreparable loss would also be considered by the court." 8 At this juncture, the Court should also consider the balance	
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	of in-convenience or the balance of convenience if the injunction is not issued or issued. In short, it needs to be determined if under the present circumstances of the case protection is necessary in favour of any parties. 9 Upon further consideration of the materials on record, it seems that the plaintiff has claimed that recently the defendant No.1 with the help of some others attempted to forcibly dispossess the petitioner. Accordingly during the continuance of the main suit and till determination of the issues at which the parties are at variance, any dispossession at this stage by the defendant No.1, may cause irreparable loss and damage to the plaintiff. The other issues as raised by the plaintiff that the partition order dated 02.09.2011 is illegal, is a matter which needs due consideration and determination in the main suit. It is also apparent that any alienation of the suit property will cause irreparable loss and damage to the plaintiff/petitioner. In such circumstances, the balance of in-convenience may tilt towards the plaintiff/petitioner. Accordingly, it is necessary that the OP No.1/defendant No.1 be restrained from interfering the possession of the plaintiff, if any, in the suit-land. 10 It needs to mentioned that the present injunction petition is solely against the private party i.e. the defendant No.1 Sri Paresh Ch. Pal. 11 Thus considering the three cardinal principles of law of injunction, the court hereby passed an <i>ex parte ad-interim</i>	
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	injunction at this stage. Let for the greater interest of justice and till determination of the issues in the main suit, the parties i.e. the plaintiff and defendant No.1 to maintain status quo over the suit-land at least till the next date, when the OPs will appear and file their Written Objections. 12 The present stage is <i>ex parte</i> and temporary in nature. Whatever restraining order is passed today is <i>ex parte, ad-interim</i> and will be in force till the next date. 13 It is made clear that the present <i>ex parte ad-interim</i> injunction in the form of <i>status quo</i> is only against the defendant No.1 Sri Paresh Ch. Pal. Such order of <i>status quo</i> is not against the other defendants i.e. the defendant No.2 the State of Assam, defendant No.3 the Co-District Commissioner and defendant No.4 the Circle Officer 14 In the meantime, issue notice to the other side instantly and a short date be fixed for the other side to appear and file written objections to the prayer made by the present petitioner. 15 Petitioner shall take steps for service of notice upon the Opposite Parties as per Order XXXIX Rule 3 CPC. 16 Petitioner shall also file an affidavit stating about delivery of notice along with copies of documents in terms of Order XXXIX Rule 3(b) CPC. 17 Fixed- 27.07.2026 for SR/Objection.	
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