

T.S. 170 of 2022
J.O. Code WB01513
CNR No: WBWMOK0000242022

Order no. 25 dated 05-06-2025

Today is the fixed date for the hearing of injunction petition as last chance.

Plaintiff is absent without any steps. It is 1 .15 pm.

Defendant has filed hazira and ready to contest the suit.

Without delaying further let the injunction be heard today by the documents and petitions filed in the record.

Today is fixed for consideration of the petition under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, filed by the plaintiffs praying for temporary injunction restraining the defendants from interfering with their peaceful possession over Schedule A and B properties and from making any construction therein.

The case of the plaintiffs is that Plaintiff No. 1 received Schedule A property by way of a gift in the year 2022 from one Jamunaduri Prajapati, who had earlier purchased the same from Rajesh Sarma and Jitesh Sharma through their constituted attorney Manjoy Kumar Singh. Similarly, Plaintiff No. 2 claims to have received Schedule B property in 2022 as a gift from one Syamsundar Prajapati, who had also purchased from the same original vendors through the said attorney. The plaintiffs allege that the defendants are now disturbing their peaceful possession and attempting to raise illegal constructions over the suit properties.

On the other hand, the defendants have filed written objections denying the claims made by the plaintiffs. It is their case that Defendant No. 3, Lakkhi Sarma, purchased the suit land from the same vendors, Rajesh Sarma and Jitesh Sharma, through constituted attorney Manjoy Kumar Singh. Similarly, Defendant No. 2 is also a purchaser from the same source of title. It is submitted that the defendants are in long-standing possession with their families and that it is the plaintiffs who have created disturbance by claiming unspecified portions of land and filing the present suit. Defendant No. 3 has already instituted T.S. No. 174 of 2022 for declaration of title and recovery of possession.

Upon hearing the learned counsels for both sides and perusing the materials on record, it is evident that both parties claim title through the same source, namely Rajesh Sarma and Jitesh Sharma, via their constituted attorney. The claims and objections of both sides indicate that the defendants are not total outsiders to the suit property.

The nature of possession, specific boundaries, and legitimacy of title of the respective parties are highly disputed questions of fact, which cannot be conclusively determined at the interim stage without full-fledged evidence.

The balance of convenience does not clearly tilt in favour of either party at this stage. Granting an injunction at this point may amount to prejudging the issue, particularly when both parties assert possession and ownership over the same land. It would be more appropriate and judicious to determine such disputed rights through trial, upon examination of evidence and cross-examination of the witnesses.

Further, the absence of the plaintiff without steps on the date of hearing indicates a lack of due diligence in prosecuting their own prayer.

Hence, the prayer for temporary injunction stands **rejected**.

To.05.07.2025 framing of issues.

Civil Judge (Jr. Divn)
Kharagpur, Paschim Medinipur

Civil Judge (Jr. Divn)
Kharagpur, Paschim Medinipur