

IN THE Court OF THE CIVIL JUDGE, SENIOR DIVISION, SECOND COURT

SADAR HOOGHLY, CHINSURAH

PRESENT: SAMITINJOY PAL (WB01329)

Title Suit No. 217 of 2026
{CNR:-WBHG03-000361-2026}

Serial No. of order.	Date of Order or Proceeding.	Order or Other Proceeding	Office action taken on Order with Date and dated Signature of Pleaders or Parties when necessary
04	28.07.2026	ORDER: The application under Section 151 of the Code of Civil Procedure raises an important procedural issue regarding the circumstances surrounding the order of ad interim injunction dated 07.07.2026. The defendant's limited concern does not focus on the merits of the plaintiff's application under Order XXXIX Rules 1 and 2. Instead, the current application is based on the claim that the defendants had already filed a caveat regarding the same property before the present suit was initiated. Despite this caveat being in place, an ex parte order for the ad interim injunction was issued against the defendants. The defendant argues that if the caveat had been brought to the Court's attention at the correct time, the Court would not have granted an ad interim order without first allowing the caveator to be heard. Thus, the defendant seeks to cancel the interim order based on the Court's inherent jurisdiction under Section 151. Records show that the ad interim injunction order from 07.07.2026 remains in effect. It is also noted that the plaintiff has since filed an application requesting an extension of this interim protection. During the current proceedings, the defendant's Counsel argued that continuing the ad interim order is legally invalid because of the earlier filing of Caveat Case No. 309 of 2026 concerning the same property. The argument is that the purpose of the statutory provision for caveats is to prevent any interim order that negatively impacts the caveator from being issued without first providing an opportunity for them to be heard. The defendant states that if the caveat was indeed in place, reconsideration of the interim order's continuation or extension is necessary before granting any further relief to the plaintiff. On the other hand, it is clear that, at this stage, the plaintiff's Advocate has not made any submissions regarding the application under Section 151 of the Code of Civil Procedure. As a result, the Court has not benefited from hearing the plaintiff about the factual claim regarding the caveat's existence. Therefore, the Court must proceed carefully since the current issue involves not only the appropriateness of continuing the interim injunction but also the proper procedures that led to its initial issuance. This Court has thoroughly reviewed the circumstances leading to the order dated 07.07.2026. It appears that before issuing this order, the Court relied on the note from the Sheristadar stating	

	that no caveat was active regarding the matter. Based on this official note from the Court's administrative staff, the Court operated under the good faith belief that no caveat was filed, and thus decided it was right to grant an ad interim injunction without giving prior notice to the defendants. Consequently, the judicial order was based on the accuracy of the official note available at that time and cannot be seen as resulting from any independent failure or deliberate neglect of the rights available to the caveator. However, the recent claim in the application under Section 151 introduces a factual situation that, if proven to be true, could directly affect the validity of the order dated 07.07.2026. If it turns out that a legitimate caveat was indeed filed before the present suit was initiated and that it remained active when the application under Order XXXIX Rules 1 and 2 was considered, the Court cannot overlook the legal implications arising from this situation. The purpose behind filing a caveat is to ensure that any individual facing a potentially harmful order is given a chance to be heard before any ex parte decision that harms their interests is made. Therefore, if the caveat was real and still legally effective, the expected procedure for the Court would have been to notify the caveator of the injunction application before considering granting ad interim relief. Thus, this claim cannot be dismissed without proper investigation simply because the interim order remains in effect. At the same time, this Court understands that merely claiming the existence of a caveat does not automatically lead to the cancellation of the interim injunction. The factual accuracy of this claim and the legal implications that follow need thorough examination after hearing both sides. The Court cannot act based solely on one party's statement. Also, the Court must consider the possibility that the previous order was based on an official endorsement that now needs verification based on the new evidence provided by the defendant. Until this factual issue is clearly resolved, it would be premature for the Court to either vacate the interim order as a routine matter or to extend it without first assessing the validity of the objection raised. This is why this Court believes it is inappropriate to resolve the current application under Section 151 solely based on the existing record without giving the parties a chance to be heard. The Court also finds it unsuitable to assume that the interim order from 07.07.2026 must continue simply because the plaintiff has filed for an extension. The question of whether the interim order should continue is now closely linked to the issue raised in the application under Section 151 regarding the caveat's existence. Both matters are interconnected and cannot be conveniently decided separately. The Court believes that the application for extending the interim order should not be taken lightly or treated routinely. Continuing an interim injunction always depends on the Court's satisfaction that the order is still legally valid. In this case, if it is ultimately determined that a caveat was indeed filed before the suit started and remained effective on the relevant date, the very basis for the ad interim order might need to be reassessed. Therefore, any extension of the interim order must depend on resolving the factual and legal issues brought up by the defendant's application under Section 151. Additionally, the Court thinks significant attention should be given to the recent procedural developments. It is clear that the defendant has participated in the suit, filing a written statement and a written objection to the injunction application. The controversy that required the ex parte order has largely disappeared. Both parties are now represented in Court, and relevant pleadings for the injunction application are nearly	
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	complete. Given these circumstances, serving justice would be better achieved by addressing the main application under Order XXXIX Rules 1 and 2 for final hearing soon, rather than repeatedly extending an interim arrangement that's now subjected to serious procedural challenges. Promptly resolving the injunction application based on its merits would not only prevent prolonged uncertainty but also adequately protect the interests of both parties. The Court is also satisfied that setting a short hearing for the injunction application is not likely to cause any serious harm to the plaintiff. In fact, an early decision would allow the parties to receive a reasoned judgment on their conflicting claims, rather than continuing under a temporary arrangement that is now being questioned. Therefore, the plaintiff may speak to the Court on the application under Section 151 of the Code of Civil Procedure and the main application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure. The defendant's Counsel has also expressed readiness to argue the injunction application on its merits. Given these circumstances, this Court believes it is appropriate to provide both parties a fair opportunity to be heard so that the matter can be resolved without unnecessary delays. Thus, the Court decides to reserve the application under Section 151 of the Code of Civil Procedure for hearing and decision. The application seeking an extension of the temporary order dated 07.07.2026 will also depend on the outcome of that hearing and will not be seen as automatically granted just because it has been submitted. The question of whether the temporary protection should continue, change, or end will depend on the findings about the alleged existence and legal impact of the caveat, as well as the arguments made by both parties regarding the merits of the injunction application. Therefore, the plaintiff's Advocate may, on 19.08.2026, choose to advocate for either the application under Section 151 of the Code of Civil Procedure, the application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, or both, as deemed necessary. However, until the issues raised in the application under Section 151 of the Code of Civil Procedure are properly considered after hearing both parties, this Court does not feel justified in automatically extending the temporary order dated 07.07.2026. The request for an extension remains open and will be decided after the hearing, with no opinion on its merits expressed at this time. To date for hearing as envisaged above. CJ(SD), 2nd Court	
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