

**In the Court of District Judge, Birbhum at Suri**

**Title Appeal -83 of 2025**  
(CNR no. WBBB01-003903-2025)

Present :- Smt. Arti Sharma Roy, (JO Code-WB00149)  
District Juge, Birbhum at Suri.

**Order No. 02 dated 23.12.2025**

Record is put up for hearing of petition u/o.39 R1 & 2 r/w. Sec. 151 C.P.C dated 19.12.2025 preferred by the appellant.

Heard Ld. Lawyer for the appellant. He files original copy of sale deed bearing No. 3872 for the year 1980 along with appellant's water tax receipt dated 18.08.1997 in respect with schedule mentioned property.

The appellant's case is that the schedule mentioned plot no. 385 pertaining to Khatian no. 861, JL no. 33 of Mouza Rangaipur under PS Sainthia, District-Birbhum measuring 0.08 acre originally belonged to Amulya Ratan Saha, since deceased, predecessor of the appellant named Sadhan Saha and the respondent no. 2 to 6. Name of Amulya Ratan Saha was duly recorded in the LRROR under Khatian no. 359 regarding the schedule mentioned plot. Said Amulya Ratan Saha died leaving behind his widow Rajrani Saha; three sons named Sadhan Saha (appellant), Tapas Saha (respondent no.2) and Alok Saha (respondent no.3) and four daughters named Renuka Saha (respondent no.4), Malati Saha (respondent no.5), Anita Saha (respondent no.6) and China Saha (respondent no.7), mother of respondent no. 7 & 8 as his legal heirs to inherit 1/7th share each. Since none of the daughters above named of Lt. Amulya Ratan Saha received their respective share Sadhan Saha, predecessor of the appellant with respondent no. 2 & 3 started to possess the entire 0.08 acre share left by Lt. Amulya Ratan Saha. Since respondent no. 2 & 3 transferred some portion of suit plot to respondent no. 1: Prakash Saha and respondent no. 9: Runu Chakraborty, their names was recorded in LR Khatian no. 2053 in respect of said plot. It is alleged that respondent no.1 in collusion with his father i.e. respondent no.2 was creating disturbance in peaceful enjoyment and possession of the share of the appellants over the schedule mentioned property which is a joint property, being not partitioned by metes and bounds amongst the share holders, the predecessor of the present appellant preferred Title Suit no. 136/2022 praying for partition amongst the share holders i.e. predecessor of the present appellant and the respondents which was disposed of by way of dismissal. It is alleged that after final disposal of Title Suit no. 136/2022 respondent no. 1 & 2 made preparation for construction of structure over the valuable front portion of plot no. 385 thereby encroaching more than his share causing disadvantage to the appellant. They did not heed to the request of the appellant. Finding no way out the appellant preferred MP case

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no. 1606/2025 and 1666/2025, both under Section 163 of BNSS and in respect of schedule mentioned plot before the Ld. Executive Magistrate, Suri. On the other hand, respondent no.1 also preferred a case bearing MP Case no. 1670/2025 under Section 163 of BNSS against the appellant with false statement and allegation. Being aggrieved against the judgment dt. 25.09.2025 in TS no. 136/2022 the instant appeal is preferred by the plaintiff / appellant.

Ld. Lawyer further submits that taking advantage of the impugned judgment, present respondent no.1 & 2 have taken preparation to dispossess them from their legitimate share by way of raising construction on valuable front undivided area of the schedule plot.

I have gone through instant temporary injunction petition wherein the appellant have prayed that they will suffer irreparable loss and injury if their petition is not allowed at this stage.

I have heard Ld. Lawyer for the appellant. Perused instant temporary injunction petition, memo of appeal, certified copy of impugned judgment and decree in T.S. No. 136 of 2022. I have also perused the photocopy of notices in MP Case no. 1670/2025, 1606/2025 and 1666/2025. MP Case no. 1670/2025 preferred by respondent no.1 reveals that he along with his family members have raised boundary wall on plot no. 385 i.e. schedule mentioned plot to which the present appellant i.e. Arati Saha, Prabhat Saha, Mukul Saha and Gour Saha are raising obstruction. It is thus an admitted position that the respondent no.1 has been raising construction on schedule mentioned property only after passing of the impugned judgment.

On overall consideration of the above documents it appears that the appellant has a prima facie case to proceed with instant title appeal. I further find that spirit of institution of this appeal will be lost and the appellant will suffer irreparable loss, if the respondent no.1 & 2 are not restrained from interfering into the peaceful possession of the appellant by way of raising any construction at the schedule plot. At the same time it requires further preventive order asking the respondent no.1 & 2 not to raise pucca construction over the schedule mentioned property till final disposal of instant petition.

On considering the balance of convenience and inconvenience, I find the same tilted in favour of the appellant. Hence it is

### **ORDERED**

that the temporary injunction petition be and the same is allowed ex parte against respondent no. 1 & 2.

Let there be promulgation of rule of injunction against the respondent no. 1& 2.

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The respondent no.1 & 2 are, hereby, directed not to raise any pucca construction over schedule mentioned plot and they shall not interfere with the peaceful possession of the appellant till disposal of instant temporary injunction petition.

The appellant is directed to take necessary steps u/o. 39 Rule 3A proviso of the C.P.C.

To **29.01.2026** for for S/R and hearing of injunction petition.

Dictated & Corrected

District Judge, Birbhum.  
(JO Code- WB00149)

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