

Title Suit No. 59 of 2026
CIS No. 59 of 2026
CNR No. WBBK07-000079-2026
Present : Sri Tanumoy Karmakar (J.O. Code: WB01209)

Order no. 02
Dated 02-06-2026

Record is put up today on the strength of a put up petition filed by the plaintiff.
Petition is considered and allowed.

Ld. Counsel for the plaintiff intends to move the application under Order 39 Rule 1 & 2 of CPC.

Now, the case record is taken up for hearing.

Heard Ld. Counsel for the plaintiff.

The case record is taken up for passing necessary order.

The crux of the plaintiff's case is that the plaintiff and his two brothers, namely, Anukul Lohar and Tapan Lohar have jointly obtained 22 decimal of the suit property by virtue of a patta given by Government of West Bengal vide Rayati Settlement Case no. 43/XII/1975. Thereafter, Anukul Lohar had expired leaving behind his wife and two daughters as his legal heirs and successors being defendant no.5 to 7 herein. It has been further averred that defendant no.1 to 3 have no right title and interest in respect of the suit property and defendant no.4 is the brother of the plaintiff and his name was mentioned in the said *patta*. It has been again alleged that defendant no.8 to 46 are the other co-sharers in respect of the suit property.

Now, the defendant no.1 to 3, being completely outsider in respect of the suit property are going to dispossess the plaintiff from his amicable share in respect of the 'A' schedule property for the purpose of making illegal construction over some portion of 'A' schedule property.

So, plaintiff has prayed for an order of injunction restraining the defendant no.1 to 3 from changing the nature and character of the 'A' schedule property and any portion thereof by making any unauthorized construction over the same.

As per the departmental report no caveat is pending on the said property with regard to the said dispute.

Ld. Counsel in the course of his submission, has produced original copy of *patta* and it clearly reflects that plaintiff is one of the *patta* holders in respect of the 'A' schedule property. Accordingly, it is clear that plaintiff became one of the co-sharers in respect of the 'A' schedule property by virtue of the said *patta*. The plot information slip as well as the khatians of the defendant no.8 to 47 clearly reflects that they are the co-sharers in respect of the 'A' schedule property.

Accordingly, plaintiff is quite able to prove a *prima facie* case in his favour because all the documents do not reflect the fact of partition between the parties to the suit. The documents also establish that defendant no.1 to 3 have no right, title and interest. Accordingly, the balance of convenience and inconvenience also tilts in favour of the plaintiff on the basis of the *patta* and plot information slip. Since, the property has not been partitioned by metes and bounds, the plaintiff will suffer irreparable loss and injuries if the defendant no.1 to 3 be able to change the nature and character of the suit property. I also find urgency to take up the injunction application on ad interim basis because if no protection was given in respect of the 'A' schedule property, then there is every possibility to grab the cream portion of 'A' schedule property by defendant no.1 to 3.

Accordingly, I find that some protection can be given to the plaintiff at this juncture.

Hence, it is,

ORDERED

that the prayer for ad-interim order on application under Order 39 Rule 1 & 2 of CPC preferred by the plaintiff be and the same is granted as ad-interim measure.

Defendant no.1 to 3, their men, agents and associates are hereby restrained from changing the nature and character of the 'A' schedule property as mentioned in the schedule of the plaint by making any unauthorized construction till the next date.

Defendant no.1 to 3 are hereby directed to show-cause within 30 days from the date of receipt of notice as to why the relief claimed in the said application shall not be granted.

Issue notice accordingly.

Plaintiff is hereby directed to file the requisites forthwith.

Plaintiff is hereby directed to comply Rule 3(a) & 3 (b) of Order 39 forthwith within 24 hours.

To date (30-06-2026) for awaiting SR of summons/notice and appearance of the defendants.

Update CIS forthwith.

Dictated & Corrected by me.