

Title Suit No. 55 of 2025
CIS No. 55 of 2025
CNR No. WBBK07-000094-2025
Present : Sri Tanumoy Karmakar (J.O. Code: WB01209)

Order no. 03
Dated 08-05-2025

Record is put up today on the strength of a put up petition filed by the plaintiff.

Petition is considered and allowed.

At the very outset of this order it is pertinent to mention here that plaintiff was directed to file D.C.F. because proper Court fees has not been paid by the plaintiff at the time of filing of this instant suit.

Today Ld. Counsel on behalf of the plaintiff filed D.C.F. amounting Rs.3,830/-.

Let the same be kept with the record.

It appears from the record that C.F. was payable by the plaintiff was Rs.3,830/- and today plaintiff filed D.C.F. amounting Rs.3,830/-.

Accordingly, I have no impediment to proceed the suit further.

Hence, issue requisites at once.

D.A. to do the needful.

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. Counsels for the plaintiff.

Contd.....

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Cond. Order no. 03
Dated 08-05-2025

The case record is taken up for passing necessary order.

The crux of the plaintiff's case is that the plaintiff and the proforma defendant no.2 to 9, being the legal heirs have inherited the suit property from their father namely, Gourhari Pal and they are possessing the same. It has been further averred in the plaint that defendant no.1 is owner of one land which is situated adjacent to the suit property and he has no right, title and interest over the suit property. It has been more alleged in the plaint that defendant no.1 is now raising illegal and unauthorized construction by encroaching the northern side of the suit plot.

So, plaintiff has prayed for an order of injunction restraining the defendant no.1 from raising illegal and unauthorized construction by encroaching the suit property.

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 all the documents which reflect that the father of the plaintiff is the original owner of schedule property. Plaintiff also filed original L.R. R-o-R record as well as the legal heir certificate of Gourhari Pal issued by Lego G.P.. Plaintiff also filed death certificate of the predecessor-in-interest of the plaintiff and proforma defendant no.2 to 9.

Accordingly, plaintiff is quite able to prove a *prima facie* case in her favour because all the documents do not reflect that defendant no.1 has no right, title and interest in respect of the suit property. I also find urgency because if defendant no.1 make unauthorized construction by encroaching the suit plot, the purpose of filing this instant suit will be infructuous and the plaintiff will suffer irreparable loss and injuries if the defendant no.1 make unauthorized construction by encroaching the suit plot. Moreover, the balance of convenience and inconvenience also tilts in favour of the plaintiff on the basis of all the documents filed by him.

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, his men, agents and associates are hereby restrained from raising unauthorized construction over the suit plot. They are also hereby restrained from disturbing the plaintiff in any manner whatsoever in respect of the peaceful occupation of the plaintiff over the suit property.

Defendant no.1 is 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 (11-06-2025) for awaiting SR of summons/notice and appearance of the defendants.

Update CIS forthwith.

Dictated & Corrected by me.