

*In the Court of Civil Judge (Senior Division), Bishnupur*  
**Title Suit No. 62 of 2025**  
*CIS No. 62 of 2025*  
*CNR No. WBBK07-000106-2025*  
*Present : Sri Tanumoy Karmakar (J.O. Code: WB01209)*

**Order no. 02**  
*Dated 21-05-2025*

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

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

The crux of the plaintiffs' case is that Schedule property appertains to RS Plot no. 1005 measuring 4.15 acre property of Mouza Shiltya previously belong to Dharendra Nath Mukhopadhyay. Thereafter prior to Commencing Hindu Succession Act. said Dharendra nath Mukhopadhyay died leaving behind his three Sons Namely Rabindranath Mukhopadhyay, Rathindranath Mukhopadhyay and Sudhindranath Mukhopadhyay. That while is in ejmal possession said Sudhindranath Mukhopadhyay without any partition has transferred his whole share i.e 1.384 acre property in respect of LR plot No.821 appertain to RS Plot No. 1005 in favour of Sri Sri Ramkrishna Sarada Vibekananda Ashram Sonamukhi and said property separately recorded in LR khatian No. 586 of Mouza Shiltya. Accordingly, Sudhindranath Mukhopadhyay has relinquished his right, title and interest from the suit property. It has been further alleged that Dwija Kumar Mukhopadhyay the son Rathindranath Mukhopadhyay inherited 1.384 acre Property. There after while said Dwija Kumar Mukhopadhyay has transferred his Some portion of the suit property in favour of the Defendants and some portion still now recorded in the name of Rathindranath Mukhopadhyay. Accordingly, the legal heirs of Dwija Kumar Mukhopadhyay made party in this suit. On the other hand, Rabindranath Mukhopadhyay died leaving behind Prashanta Mukhopadhyay as his legal heir and successor. Thereafter, Prashanta Mukhopadhyay has transferred by way of sale deed in favour of Sagunananda Bondyapadhyay. However, said Sagunanda Bondyapadhyay died leaving behind his three sons namely, Priyabrata Bondyapadhyay, Debabrata Bandyapadhyay and Shantibrata Bondyapadhyaya, and they by way of inheritance they jointly got 1.384 acre property of said deceased Sagunananda Bondyapadhyay. Then, they jointly and separately transfer there whole share in respect of LR Plot no. 822 appertaining RS plot No. 1005 by Virtue of Four Registered Deed of Sale being Nos. 4676 of 1982, 4677 of 1982, 4678 of 1982 and 4596 of 1982 in favour of Apurba Chattapadhyay, Kamal Krishna Chattapadhyay, Babua Chattapadhyay and Sachin Chattapadhyay. Thereafter, said Kamal Krishna Chattapadhyay died leaving behind his five legal heirs or successors namely Apurba Chattapadhyay, Babua Chattapadhyay, Sachin Chattapadhyay i.e, Three sons, Shankari Chattapadhyay i.e, wife and Anita Mukhopadhyay i.e, Married Daughter. Thereafter by way of inheritance Five Legal heirs of said Kamal Krishna each obtained 1/5<sup>th</sup> share of 1.384 acre property (i.e 0.069 acre each). There after said Apurba Chattapadhyay, Babua Chattapadhyay and Sachin Chattapadhyay transfer their whole share in respect of the LR Plot No. 822 appertain to RS plot no. 1005 by way of Registered Deed of sale being No. 2360 of 2006 in favour of Plaintiff no. 2 i.e, Anita Mukhopadhyay and her husband Sukumar Mukhopadhyay and their name was recorded in Current LRROR. It has been further averred that Sukumar Mukhopadhyay died leaving behind his wife i.e, Plaintiff no. 2 and One Son Namely Biswa Mukharjee i.e, Plaintiff no.1. Accordingly Plaintiff no.1 & 2 by way of inheritance obtained the property of Sukumar Mukhopadhyay. It has been more stated in the plaint that defendant No. 12 Shankari Chattapadhyay has transferred her whole share which she inherited from her deceased Husband, in favour of her only daughter Anita Mukhopadhyay by virtue of registered deed of Gift being No. 992 of 2021. It is pertinent to be mentioned here that though Shankari Chattapadhyay has transferred her whole share in favour of her daughter but in current LRROR her name still now wrongly recorded.

Now for wrongful gain the defendant no.1-4 and 6-10 in collusion with some local Land Brokers have been trying to change the nature and character of the schedule premises or property without any partition. Plaintiffs on several occasion requested the Defendants verbally to make partition of those property amicably by metes and bound, but those Defendants refused to do so.

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So, plaintiffs have prayed for an order of injunction restraining the defendant no.1 to 4 & 6 to 10 from dispossessing the plaintiffs from the schedule property and from changing the nature and character of the suit property and any portion thereof by making illegal construction and from alienating the suit property to any third party.

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

Ld. Counsel for the plaintiffs in the course of his submission filed original L.R. R-o-R, and the deeds by which the plaintiffs became the right, title and interest holder in proportionate to their share in respect of the suit property.

Accordingly, it is clear that plaintiffs and defendants are the co-sharer in respect of the suit property because no document reflects regarding the partition of the suit property among them.

So, plaintiffs are quite able to prove a *prima facie* case in their favour. The balance of convenience and inconvenience also tilts in favour of the plaintiffs on the basis of the documents filed by them. Since, the suit property is not partitioned by metes and bounds, the plaintiffs will suffer irreparable loss and injuries if any construction was done by the defendants in the valuable portion of the suit property or if any portion of the suit property was alienated to any third party which will bring home multiplicity of proceedings.

Accordingly, I find that some protection can be given to the plaintiffs 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 plaintiffs be and the same is granted as ad-interim measure but in part.

Defendant no.1 to 4 & 6 to 10, their men, agents and associates are hereby restrained from changing the nature and character of the suit schedule property and any portion thereof by making illegal construction till the next date. They are also hereby restrained from alienating any portion of the suit property to any third party till the next date. They are again restrained from disturbing the plaintiffs in any manner whatsoever in respect of peaceful possession of the plaintiffs over the suit property till the next date.

Defendant no. 1 to 4 & 6 to 10 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.

Plaintiffs are hereby directed to file the requisites forthwith.

Plaintiffs are also directed to comply Rule 3(a) & 3(b) of Order 39 forthwith within 24 hours.

To date **(01-07-2025)** for awaiting SR of summons/notice and appearance of the defendants.

Update CIS forthwith.

*Dictated & Corrected by me.*

*Civil Judge (Sr. Divn.), Bishnupur*

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