

FORM OF ORDER SHEET
DISTRICT : COOCH BEHAR

Present : Smt. Sonalee Nandy Chakrabarti (WB00584),
District Judge, Cooch Behar

Misc. Appeal No. 07 of 2025
(CNR No. WBCB01-002364-2025)

Beauty Dam Roy -Versus- Jayasri Basu & 2 Others

01
27.08.2025

An appeal is preferred this day under order 43 rule 1 (r) of the C.P.C with court fee of Rs.30/- against the order No. 01 dated 01.08.2025 passed by the learned Civil Judge, Junior Division, Sadar, Cooch Behar in Title Suit No. 63 of 2025. Certified copy of the said order is also filed.

Perused the copy of impugned order.

The appeal is filed in time. No caveat is pending.

Register the same as Miscellaneous Appeal.

A application under order 39 rule 1 & 2 of the C.P.C read with section 151 of the C.P.C (**IA 01/2025**) is filed by the appellants praying for an order of injunction be kept in the record.

Documents, filed as per firisti, be kept in the record.

Fix **25/09/2025** for S/R and appearance.

Dictated & corrected,

-Sd/-
District Judge,
Cooch-Behar

-Sd/- S.N Chakrabarti
District Judge,
Cooch-Behar

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Now, the application under order 39 rule 1 and 2, C.P. Code read with section 151 of the C.P. Code praying for an order of interim injunction is taken up for hearing.

Ld. Advocate for the appellant moved the injunction petition. He also produced some documents by firsti.

It is stated in the application that the plaintiffs are in exclusive possession of the suit property as mentioned in the schedule and they have their business under name and style "Sandhya Stores" and residential house in the suit property. One Tikendrajit Roy began to own and possess the suit property for more than 45 years denying the right, title and interest of the original owner as the the property was lying full of bushes and jungles and and he developed the said property with the passage of time. From the middle part of June, 1979 he was in possession over the suit property till his death. After taking licence from Cooch Behar Municipality in the name of his wife Sandhya Rani Roy, said Tikendra Roy started a grocery shop in the suit property which is still running. The said property was recorded in the name of Alo Rani Basu and Tikendrajit Roy used to pay the rents and taxes in the name of the owner. On 06.06.1980, said Alo Rani Basu claiming herself to be owner of suit property demanded vacant possession of the same from Tikendrajit Roy but he denied her right, title interest and possession over the suit property and since then, Tikendrajit Roy began to possess the suit property adversely, openly, uninterruptedly and peacefully in hostile assertion of right, title interest of said Alo Rani Basu. The plaintiffs are his descendants. The said Alo Rani Basu and her son Chanchal Kr. Basu were settled permanently in Kolkata and Bangalore and they died on 26/01/1999 and 27/02/2011. The defendants are the legal heirs of Chanchal Kr. Basu. Tikendrajit Roy and Sandhya Rani Roy died on 07/06/2005 and 31/05/2006 respectively and after demise of Sandhya Rani Roy, her son Kamalendu became the absolute owner and possessor of the said property and after his demise on 26/11/2018, his wife and son i.e. plaintiff Nos. 1 and 2 are in exclusive possession over the suit property. The defendant Nos. 2 and 3 despite being aware of the adverse possession of the plaintiffs over the suit property executed a purported registered deed of gift being No. I-2754 of 2025 in favour of defendant no.1. The defendants are neither in possession of the suit property nor they have inherited the same from their predecessor, Chanchal Kr. Basu. The

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defendants are permanent residents of Bangalore but at present defendant No.1 is residing in Cooch Behar. Defendant no.1 on the strength of that purported gift deed and erroneous R.O.R in connivance with some land brokers threatening to take forcible possession of the suit property from the plaintiffs. The plaintiffs have prima facie case and they will suffer irreparable loss if the defendants dispossess them. The balance of convenience and inconvenience also tilts in favour of the plaintiffs. So the plaintiffs have come before the Court with a prayer for temporary / ad-interim injunction.

I have gone through the documents filed by the Id. Advocate for the appellant.

I have perused the certified copy of the impugned judgment dated 01.08.2025 passed by the Ld. Civil Judge (Jr. Divn.), Sadar, Cooch-Bihar in Title Suit No.63/2025.

On perusal of the injunction petition and documents, I find that the appellants have been able to establish a prima facie case in their favour. I also find that the balance of convenience and inconvenience is in favour of the appellants of the instant case and if the interim protection is not given, the present appellants will suffer substantial loss and the very purpose of filing this instant appeal will be infructuous one.

So, considering the entire facts and circumstances, I am of opinion to allow the ad-interim injunction **till next date**.

Parties are directed to maintain status quo in respect of the nature, character and possession on the suit property **till next date**.

Issue notice to the respondents asking them to show-cause as to why the injunction petition shall not be granted in favour of the appellants.

The appellants shall comply with the provisions under order 39, rules 3(a) and 3(b) of C.P. Code. However, the respondents are at liberty to apply for discharge or variation of the order under order 39, rule 4 of C.P. Code.

Inform the Ld. Trial Court accordingly.

Dictated & corrected,

-Sd/-
District Judge,
Cooch-Bihar

-Sd/- S.N Chakrabarti
District Judge,
Cooch-Bihar