

**Order no. 14 Dated 12.08.2025**

Today fixed for passing order in respect of petition u/O 39 R. 1&2 of CPC read with section 151 of CPC , dated 19.05.2025, filed by the plaintiff.

Both the plaintiffs and the defendants file their representative haziras through their Ld.

Advocates and the plaintiffs filed the injunction extension petition.

The defendants filed the written objection dated 30.08.2025 against the injunction petition .

Ld. Advocate of the plaintiffs submitted before this Court that, both the plaintiffs became the owners of the suit property by a gift deed executed by their father Haragobindo Ghosh in the year 2014 and after the execution of the said deed the L.R. ROR of the suit property has been recorded in the names of the each plaintiffs and the dag no of the suit property is 819/1190 which is a raiyat property and the land mentioned in the trace map of the plaint as 819/kha of dag no 819 is about 1 and 1/2 ft. land and the at the contiguous south of the suit property that is 819/1982 , there is the property of dag no 819 which is the property of the defendants and the defendants have no right, title ,interest and possession over the suit property and without having any right, title ,interest and possession over the suit property the defendants are tried to raise permanent structure over the dag no 819 by encroaching the plaintiffs' property in dag no 819/1982 up to the land of Ka property ( mentioned in the trace map of the plaint) and the plaintiffs have also alleged that the defendants did not left any gap or space from their boundary line which is mandatory at the time of raising construction and when the plaintiffs told the defendant not to raise construction by encroaching the plaintiffs' land the defendants declared that they will not leave any gap from their boundary line of their property and they have also gave threat to the plaintiff with dire consequences and the defendants are collecting building materials for raising construction and if the defendants are successful to raise building without leaving any space between the plaintiffs property and the defendants property then the plaintiffs will suffer irreparable loss and the plaintiffs prayed for injunction against the defendants.

In reply Ld. advocate of the defendants submitted before this Court that the plaintiffs have no right to file this injunction petition against the defendants and they are also not entitled to get any relief as per the prayer of the of the injunction petition. The defendants denied all the contentions of the plaintiffs stated in their injunction petition and actual contention of the defendants is that the defendants had and have their raiyat property in dag no 819 which is non suited land and presently the L.R. ROR of the said non suited land has been recorded in the names of defendants no dag no 1024 and 1026 khatian and finally published and according to the defendants they are not raising any kind of construction by encroaching the suit property in dag no 819/1982 and defendants have raised construction in their own property which is within the dag no 819 and there are numerous case are pending between the plaintiffs and the defendants and these defendants are raising their construction in their property in compliance of the applicable rules instead of that the plaintiffs out of grudge fabricated a false trace map and filed this false suit against the defendants and the plaintiffs have not made any complaint before the local Panchayat against the alleged illegal construction work of the defendants and the defendants again submitted that after getting injunction order from t his Court on 25.03.2025 the plaintiffs again filed one Petition Case being no 435/2025 before the SDEM Paschim Medinipur only to create pressure upon the defendants and the plaintiffs have filed this present suit purposively and the defendants prayed for the rejection of the injunction petition filed by the plaintiffs.

Heard & considered.T.S- 19/25 (CIS-20/25)

(CNR- WBWM11-000034-2025)

Contd.....

Peruse the case record and the material there in and it transpires from the case record that the plaintiffs have instituted this present suit for declaration of their 16 annas right, title , interest

and possession of the suit property and also prayed a permanent against the defendants and the plaintiffs alleged that the defendants are trying to raise construction without leaving any mandatory space or gap between two plots as per Panchayat rules by encroaching the plaintiffs property which is the suit property. It transpires from the plaint that the suit dag no is 819/1982 and the defendants property is situated southern portion of the suit property and the dag no of the defendants' property is 819 which is contiguous south of the suit property. At the time of filing of the suit the plaintiffs prayed an ad interim order before this Court and submitted that the defendants are trying to encroach the suit property without leaving any space between the two plots as per panchayat rules and to secure the plaintiffs peaceful possession of the plaintiffs in the suit property this Court has allowed the ad interim injunction order of the plaintiffs and by that order this court has restrained the defendants from doing any kind of encroachment in the suit property. According to the plaint the defendants property in dag no 819 is non suited property which is situated contiguous north south of the suit property and as alleged by the plaintiffs that the defendants are raising construction in the dag no 819 without leaving any space between this two properties and also encroached the suit property. The plaintiffs have repeatedly alleged that the defendants did not followed the rules of Panchayat which is mandatory to leave a space of 1 and 1/2 ft. from the boundary line before raising any construction but no such document has come before this Court that the plaintiffs raised any complain before the local authority when the defendants are breaking the rules of the local governing authority. Moreover the , the plaintiffs have admitted that dag no 819 is non suited property and belongs to the defendants and this Court is not at all concern with any construction work raising by the defendants in their own land but the Court is only to look out that the plaintiffs peaceful possession in the suit property should not be disturbed by the defendant. The allegation of encroachment of the suit property by the defendants is matter of trial and till then this Court is considering only the peaceful possession of the plaintiffs in the suit property only. Hence. it is ORDERED

That the injunction petition filed by the plaintiffs is here by allowed on contest and the defendants are here by restrained from creating any kind of disturbance in the peaceful possession of the plaintiffs in suit dag no 819/1982 in Kharikaguli mouza till the disposal of the suit.

Next date 09/12/2025 for framing issued of the suit.

D/C by me

S/d- Lipika Das  
Civil Judge Jr. Div Additional  
Court, Garhbeta.