

OC 7/2025
CIS 02/2025

Order no. 06
Dated 12.12.2025

Today is fixed for injunction hearing, WS by defendant no. 3 and WS by plaintiff, if any, in respect of the counter claim.

Plaintiff files Advocates hazira.

Defendant no. 1, 2 and 3 files lawyers hazira.

Plaintiff files a petition praying for extension of the ad-interim injunction order.

Plaintiff files a petition praying for time for filing WO in respect of the counter claim.

Plaintiff files a petition praying for time for injunction hearing.

Defendant no. 3 files a petition praying for time for filing WS.

Ld. Advocate of the plaintiff is present.

Ld. Advocate of the defendant no. 1 and 2 is present.

Ld. Advocate of the defendant no. 3 is present.

Time petition filed by defendant no. 3 praying for further date for filing WS is hereby heard, considered and allowed for ends of justice.

Time petition filed by plaintiff praying for injunction hearing is hereby heard, considered and allowed for ends of justice.

The extension petition of ad-interim injunction order filed by the plaintiff is heard, considered and allowed for ends of justice.

Both parties submitted that next date may be fixed after winter vacation and suitably in the 2nd Week of February.

Let the ad-interim injunction order be extended till **10.02.2026**.

Case is adjourned for ends of justice.

Fix **10.02.2026** for injunction hearing, WS by defendant no. 3 and WS by plaintiff, if any, in respect of the counter claim.

Dictd. and Corrted. by me

Civil Judge (Jr. Divn.), Ksg.
J.O. Code-WB01405

Civil Judge (Jr. Divn.), Ksg.
J.O. Code-WB01405

OC 7/2025

Order no. 02

24.09.2025

Record is put up today by filing put up petition by the plaintiff.

Ld. Advocate for the plaintiff moves the petition u/o. 39 r 1 and 2 r/w. Sec. 151 of CPC.

No caveat is pending as per report of the Sheristadar.

The matter is taken up for hearing petition u/o. 39 r 1 and 2 r/w. Sec. 151 of CPC. accordingly.

Heard the Ld. Advocate for the plaintiff. Perused the petition, the document, plaint, and all other materials on record.

Considered.

The plaintiff's case in a nutshell is that plaintiff is an absolute owner and under the possession of a residential flat measuring about 700 Sq.ft. on the Second floor of a four storied building specific mentioned as A schedule property, purchased from one Mr. Farid Rahman, the plaintiff also mutated his name with the regard to the schedule property. In 2023 and also September, 2025 defendant no. 1 and 2 started construction of a wall at the northern boundary of the plaintiff's flat which is adjoining to the plaintiff's property. That defendant being the owner of adjoining property at the northern side of the plaintiffs side without due sanction and in violation of building rules as per Municipal Act have extended their construction beyond their boundary and are carried out improper and illegal construction thereby attaching their wall to the wall of the plaintiff's flat described in the schedule B. That due to the said illegal construction of the defendant no. 1 and 2, the seepage of water caused damage to the property of the plaintiff which is also creating unhealthy and unsafe condition to live in of the family of the plaintiff and also causes medical problems emerging from the dampness caused by seepage. That the plaintiff requested the defendant no. 1 and 2 to stop such illegal construction but defendant did not pay any heed to the request. That the plaintiff also made complaint to the Kurseong Municipality but did not got any remedy for the nuisance cause by the illegal construction of the defendant no. 1 and 2. Finding no other alternative, the plaintiff has filed this suit.

In this context, plaintiffs pray for an order of ad interim injunction restraining the defendants and their men, agents, employees and/or assigns or anyone claiming under them from raising further illegal construction adjoining the plaintiff's flat at the northern side and also remove/rectify the improper construction causing seepage and nuisance in respect of the B Schedule property.

In support of his contention plaintiffs have filed photocopies of the following documents: 1. Deed of Conveyance dt. 18.01.2017, 2. Khatian bearing no. 6237, 3. Land Revenue Receipt, 4. Letter to the Chairperson, Kurseong Municipality dt. 09.09.2023, 5. Kurseong Municipality property Tax and 6. Prescription and OPD Card and 7. Aadhar Card of the plaintiff.

Originals are produced for perusal of the Court.

From the documents so filed by the plaintiffs, it is found that plaintiff's has filed the deed of conveyance and also R.O.R. standing in the name of the plaintiff and also plaintiff has filed the copy of complaint letter sent to Kurseong Municipality and so considering this, this Court finds that the plaintiffs have been able to establish a prima facie case in his favour and also the balance of convenience and inconvenience is lying in the favour of the plaintiff and if the plaintiffs prayer is not allowed at this stage, then the plaintiff will suffer irreparable loss and injury. So, at this stage, considering the urgency of the prayer, this Court is inclined to allow the same.

Hence, it is

ORDERED

that the instant prayer of ad interim injunction as prayed by the plaintiff is hereby considered and allowed.

Both the parties are hereby to maintain status quo in respect of the nature and character of the "B" Schedule property till 17.10.2025 or any further order.

Plaintiffs are directed to comply order 39 rule 3(a) and 3 (b) of CPC.

Requisites at once.

Issue notice upon the defendants to show cause within 15 days from the date of receipt of notice as to why the prayer of temporary injunction as prayed by the plaintiff shall not be allowed.

Plaintiff to put urgent requisite.

To date (17.10.2025).

Returned the original documents with a direction to refile the same as and when directed by this Court.

Dictd. and Corrtd. by me

Civil Judge (Jr. Divn.), Ksg.
J.O. Code-WB01405

Civil Judge (Jr. Divn.), Ksg.
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