Misc. Appeal 94 of 2025

Order No. 04 dated 19.08.2025

The case record is put up today by a petition filed by the appellant.

Ld. counsel for the appellant moves the petition U/O 39 Rules 1 and 2 of CPC read with section 151 of CPC.

Having perused the attending facts and circumstances and the entire case record the Misc. Appeal is **admitted. Call for T.C.R.**

Heard ld. counsel for the appellant. Perused the petition and copy of the plaint.

Specific assertion of the appellant is that the property originally belonged to Saraswati Hazra, who transferred the suit property by demarcating to her daughter, the appellant/plaintiff by deed of gift. The appellant acquired right,title and interest of the suit property and has been possessing the same. Saraswati Hazra looked after the respondent/defendant as stepson and also gifted demarcated portion of the property by separate deed. But the respondent/defendant being a greedy person always tried to grab others property. The plaintiff/appellant was raising pucca boundary wall on vacated portion of tree and on her boundary according to her deed. The respondent/ defendant was intentionally and whimsically restraining the old and ailing lady for his ulterior motive and wrongful gain. The matter was informed to local police station but of no result. So, prayer for ad interim injunction has been made.

As a matter of fact, the injunction application is bereft of any date, time or manner of restraint by the respondent/ defendant. Paragraph-6 of the petition is not also clear about the place where the boundary was going to erect by the appellant/ plaintiff. Paragraph-7 disclosed about threat by the respondent/ defendant.

Considering the nature of contentions made by the appellant/ plaintiff, I am not inclined to grant injunction in favour of the appellant without giving the adversary an opportunity of being heard.

The prayer for ad interim injunction, thus, is refused at this stage.

Accordingly, issue notice upon the respondent. Requisites be put in at once.

Let the case record be transferred to the Court of ld. A.D.J-cum-Judge,Special Court, Chinsurah for disposal. T.C.R. etc. be produced before the ld. Transferee Court.

Fix **27/11/2025** for S.R., A.D. and appearance.

Dict. & Corrected by me

D.J. District Judge, Hooghly.