

Misc. Appeal No. 09/2025
CNR No. WBHW0100 0421 2024

Present: Sonia Majumdar
District Judge, Howrah.
J.O. Code – WB01128

Order No. 02 dated 29.01.2025

The record is put up today on the basis of a put up petition.

On the prayer of the learned Advocate for the appellants, the application under Order 39 Rules 1 and 2 read with sec. 151 of the C.P.C. is moved for passing temporary or ad interim injunction.

From the office report it appears that there is no caveat till date.

The application under Order 39 Rules 1 and 2 read with Section 151 of the C.P.C. with a prayer for an order of ad-interim/temporary injunction against the respondents/defendant nos. 2 and 3, thereby restraining them from disturbing the peaceful possession of the appellants/plaintiffs over the 'A' schedule suit property and/or also from transferring, alienating and/or encumbering any portion of the 'B' schedule suit property and and other reliefs, is taken up for hearing.

The case of the appellants is that the 'A' schedule suit property measuring about 37 decimals was purchased by the father of the plaintiffs namely, Lakhikanta Manna by two separate registered deeds of sale dated 03.06.1991 and 29.06.1998 from Mohini Mohan Jana and after the death of Lakhikanta Manna, his five sons and two married daughters became the lawful owners of the suit property as his wife predeceased him and said two married daughters being the appellant nos. 6 and 7 transferred their share in favour of their five brothers being the appellant nos. 1 to 5 and accordingly, the appellants are in possession of the suit property. It is the further case of the appellants that all on a sudden on 14.06.2024 defendant nos. 2 to 3 accompanied with some unknown persons came to the suit property and claimed that they are the owners of some portion of the 'A' schedule suit property being 'B' schedule suit property by way of purchase through one manufactured sale deed dated 26.04.2024 from the defendant nos. 4 to 14 and defendant nos. 2 and 3 fraudulently entered their names in the LRROR but the said defendant nos. 4 to 14 had no right, title and interest over the 'B' schedule suit property. The appellants lodged a General Diary vide Panchla P.S. G.D.E No. 601 dated 11.09.2024 and

also filed a Misc. Petition under sec. 144 of the Cr.P.C. and also filed Title Suit being No. 54 of 2025 for declaration and permanent injunction along with an application for an order of ad interim temporary injunction which was rejected by the learned Trial Court. Being aggrieved, the appellants then filed the instant Misc. Appeal whereby they have prayed for an order temporary or ad interim injunction.

Heard learned Advocate for the appellants. I have perused the injunction application and photocopies of the documents and other materials on record.

Considered.

On consideration of the same, I find that the appellants have filed photocopies of the documents showing the original like C.S. & R.S. parcha, certified copy of sale of deed of the year 1944, sale deed of the year 1957, sale deed of the year 1960, sale deed of the year 1998, deed of gift, legal heirship certificate, L.R. searching slip, G.D. Entry, copy of Misc. Petition, certified copy of sale deed etc. in support of their case. On consideration of the same, it comes out that the appellants have prima facie case and possession over the suit property.

Considering the facts and circumstances of the case and also considering the urgency of the matter, I am of the considered opinion that an order of ad interim injunction may be allowed for a limited period.

Hence, it is,

Ordered

that the application under Order 39 Rule 1 and 2 read with Section 151 of the C.P.C. praying for ad interim order of injunction is allowed.

The respondent nos. 2 and 3 are hereby restrained from disturbing the peaceful possession of the appellants/plaintiffs over the 'A' schedule suit property and also from transferring, alienating and encumbering any portion of the 'B' schedule suit property till 27.02.2025.

Issue notice upon the respondents asking them to show cause within fifteen days from the date of receipt thereof as to why the prayer for temporary injunction shall not be granted.

Requisites at once.

The appellants are directed to comply with the provision of Order 39 rule 3 (a) & (b) of the C.P.C. at once.

To date.

Dictated & corrected by me.

D. J.

District Judge, Howrah.