

Misc. Appeal No. 15/2025
CNR No. WBHW0100 0660 2025
Present: Sonia Majumdar
District Judge, Howrah.
J.O. Code – WB01128

Order No. 02 dated 17.02.2025.

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

On the prayer of the learned Advocate for the appellant, the application under Order 39 Rules 1 and 2 read with sec. 151 of the C.P.C. is moved for passing ad interim/temporary 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 temporary/ad interim injunction restraining the respondent/defendant and his men and agents from creating any disturbances with the peaceful possession of the appellant/ plaintiff over the schedule noted suit property in any manner whatsoever and other reliefs, is taken up for hearing.

The case of the appellant is that the suit property was originally belonged to one Binod Bihari Paul who got the same by way of a registered deed of gift dated 25.09.2013 executed by one Monoranjan Paul and after the death of said Binod Bihari Paul, his one son Ashis Paul and one daughter Manju Paul acquired the suit property by way of inheritance as his legal heirs and thereafter, they sold out the said property to the appellant/plaintiff by way of two separate deeds of sale and accordingly, the appellant/ plaintiff became the absolute owner and occupier of the schedule mentioned suit property and he mutated his name in the LR & ROR by paying taxes and khajna. It is the further case of the plaintiff/appellant that thereafter he started to construct a pucca residential building after getting sanction plan. On 30.12.2024, the respondent/ defendant being a stranger along with some goons came to the suit property and tried to create disturbances with the peaceful possession of the plaintiff and the appellant/plaintiff lodged one G.D. being No. 3320 on 30.12.2024 and thereafter again on 08.02.2025 the defendant along with some local goons came to the suit property and tried to create disturbances in the peaceful possession of the suit property and also obstructed with the smooth running of the construction work. The appellant/plaintiff then filed Title Suit being No.

197 of 2025 for declaration and permanent injunction along with an application for an order of ad interim/temporary injunction but, though the learned Trial Court allowed the application under Order 39 Rules 1 and 2 read with Section 151 of the C.P.C. and the learned Trial Court restrained defendant and his men and agents from creating any disturbance in the peaceful possession of the plaintiff in respect of the suit property but by that order both the parties were also directed to maintain status quo in respect of nature and character of suit property. As a result, by the said order, the appellant himself is enjoined in his own property. Being aggrieved, the appellant then filed the instant Misc. Appeal whereby he has prayed for an order temporary or ad interim injunction.

Heard learned Advocate for the appellant. 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 appellant has filed photocopies of two regd. deeds of sale for the year 2023, L.R. Record of Rights, searching report, govt. tax receipt (khajna), panchayet tax receipt, sanction plan application, G.D. Entry etc. in support of his case. On consideration of the same, it comes out that the appellant/plaintiff has prima facie case.

Considering the facts and circumstances of the case and also considering the urgency of the matter and as the balance of convenience and inconvenience tilts in favour of the appellant, I am of the considered opinion that an order of ad interim injunction restraining the respondent/defendant 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/defendant and his men and agents are hereby restrained from creating any disturbances with the peaceful possession of the appellant/ plaintiff over the schedule noted suit property in any manner whatsoever till 20.03.2025.

Issue notice upon the respondent asking him 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 appellant is 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.