

Misc. Appeal No. 32 of 2025
CNR No. WBHW01 001083 2025

Present: Abhijit Som,
District Judge, Howrah.
J.O. Code - WB01127

Order No. 06 dated 08.09.2025.

The application under Order 39 Rules 1 and 2 read with sec. 151 of the C.P.C. is taken up for hearing.

Being aggrieved with the order of rejection of the injunction application, the instant Misc. Appeal is filed.

The caveator was served notice on 12.03.2025. However, none appears on behalf of the caveator/respondent no. 1.

learned Advocate on behalf of the appellant prays for an interim order of injunction.

It is the case of the appellant that he has filed the suit for a decree of declaration and injunction, mainly with the prayer that he may not be dispossessed from the suit property without due course of law. It is admitted by the appellant that there is an ex parte decree passed by the Court against the thika tenant Rosulan Bibi. However, the appellant duly recorded his name with the thika controller and by filing a separate suit, challenged the said decree. Moreover, it is given to understanding that the appellant is in possession of the suit property and he may not be dispossessed without due course of law.

Accordingly, this Court is of the view that an interim order may be passed in favour of the appellant when the respondents are not appearing in spite of service of notice.

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.

Considering good prima facie case and the balance of convenience and inconvenience in favour of the appellant, this Court is of the view that an ad interim order of injunction may be granted where irreparable injury is anticipated.

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 ex parte.

Both appellant and the respondents are hereby directed to maintain status quo in respect of nature, character and possession of the suit property till 28.10.2025.

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.

Call for L.C.R.

Fix 28.10.2025 for further order.

Dictated & corrected by me.

D. J.

District Judge, Howrah.