

Misc. Appeal No. 244 of 2025
CNR No. WBHW01 006601 2025

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

Order No. 02 dated 19.12.2025.

The record is put up on prayer.

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

No caveat is filed as per office report.

Heard learned Advocate on behalf of the appellant.

It is the case of the appellant that he made an agreement with the respondents for the development of the property. It is stated that in the development agreement it was written that a G+3 building will be constructed over the said property. On the other hand, the Municipal Corporation has given permission of only G+1 building and therefore, the respondents are demanding more money to the tune of Rs. 30,00,000/- from the appellant and also trying to hand over the property to another developer for making construction over the same suit property. It is argued that although the suit is filed on behalf of the promoter, but the issues raised in the suit do not come within the purview of the new Building Regulation Act. Having threatened of dispossession the appellant filed the suit. The appellant being the plaintiff also filed an application for temporary injunction and sought for an ad interim order of injunction. The learned Trial Court refused to pass an ad interim order. Hence, the Misc. Appeal is filed.

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.

It is found that a development agreement is entered into in between the parties and payment has already been made in favour of the respondents. Building plan has been sanctioned by the Municipal Authority to the extent of G+1 building instead of G+3 building. So, having gone through the record and heard the submission of the learned Advocate, this Court is of the view that appellant has made out a prima

facie case. 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. Moreover, the appellant has also made out a case of urgency where an ad interim order may be passed without giving notice to the defendants/ respondents.

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 parties are directed to maintain status quo in respect of nature, character and possession of the suit property till 17.01.2026.

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.