

Misc. Appeal No. 69 of 2025
CNR No. WBHW01 001989 2025

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

Order No. 02 dated 06.05.2025.

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.

It is the case of the appellants/plaintiffs that they sold out 'B' and 'C' schedule property in favour of the respondent. It was specifically mentioned in the covalent that the purchaser shall have no right to demolish or to reconstruct the said property which is to be used only for office room purpose. It is the allegation of the appellants that the said room is used for a Gym Centre after demolishing the inner wall in between the 'B' and 'C' schedule property. Moreover, it is alleged that nuisance is created by the respondent and outsiders after establishment of a gym centre there and the right of common enjoyment of the other owners of the building are being infringed. Accordingly, the suit for permanent injunction is filed. The appellants have a good prima facie case.

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.

Considering good prima facie case and the balance of convenience and inconvenience in favour of the appellants, 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.

The respondent is hereby restrained from making any kind of nuisance in order to disturb the peaceful enjoyment of the suit property

by the appellants till 04.06.2025.

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.