

Misc. Appeal No. 80 of 2026  
CNR No. WBHW01 002569 2026  
Present: Subhash Kumar Kar,  
District Judge, Howrah.  
J.O. Code – WB00592

Order No. 02 dated 04.06.2026.

This day is fixed for hearing on the point of admission.

The case is taken up for hearing on the point of admission.

Heard learned Advocate appearing for the appellant.

From the record it appears that the Title Suit was brought before the learned Trial Court being Title Suit No. 495 of 2026 and the plaintiff/appellant herein filed an application under Order 39 Rule 1 and 2 of the C.P.C. praying for ad interim order of temporary injunction in terms of the prayer which was allowed in part by the learned Trial Court by the order dated 27.04.2026 directing the appellant not to raise any construction over the 'A' schedule property which belongs to the appellant. Having perused the order impugned, I am of the view that the present appeal involves arguable points and accordingly, it is admitted.

On perusal of the office report it appears that no caveat has been lodged by the adversary. So, the petition under Order 39 Rules 1 and 2 read with sec. 151 of the C.P.C. is taken up for hearing.

Heard on the petition under Order 39 Rules 1 and 2 read with sec. 151 of the C.P.C. filed in connection with this Misc. Appeal praying for ad interim order of temporary injunction.

Learned Advocate for the appellant submitted that he is occupying the 'A' schedule property and the respondents are occupying the 'B' schedule property mentioned in the plaint and the respondents are raising construction over the 'B' schedule property without leaving any side space and without obtaining any sanction plan from the Howrah Municipal Corporation since the suit property is within Howrah Municipal Corporation and the learned Trial Court has wrongfully restrained the defendants from raising any construction over the 'A' schedule property instead of 'B' schedule property and it is prayed to pass necessary order.

On perusal of the copy of the plaint and other documents submitted by the learned Advocate for the appellant, it appears that the appellant is occupying the 'A' schedule property being purchased by a registered deed of sale and the respondents are occupying the 'B' schedule property described in the plaint and the appellant filed the Title Suit No. 495 of 2026 praying

for declaration and permanent injunction in the event that the respondents are raising illegal construction over the 'B' schedule property without leaving any side space and without having sanction plan as it appears from the information collected from Howrah Municipal Corporation under Right to Information.

Having regard to the peculiarity of the circumstances, I am inclined to modify the order impugned passed by the learned Trial Court and to dispose of the Misc. Appeal accordingly.

Hence, it is

Ordered

that the instant Misc. Appeal is allowed and the impugned order dated 27.04.2026 passed by the learned Civil Judge (Junior Division), 6<sup>th</sup> Court, Howrah in Title Suit No. 495 of 2026 stands modified to the extent that the defendants/respondents are restrained from raising any construction over the 'B' schedule property till the next fixed before the learned Trial Court.

The appellant is directed to comply with the provisions of Order 39 rule 3 (a) & (b) of the C.P.C. at once before the learned Trial Court.

Thus, the Misc. Appeal is disposed of.

Let a copy of this order be forwarded to the learned Trial Court for information and necessary action.

Dictated & corrected by me.

D. J.

District Judge, Howrah.

Memo No. \_\_\_\_\_/dated 04.06.2026.

Let a copy of this judgement be sent to the Ld. Civil Judge (Junior Division), 6<sup>th</sup> Court, Howrah for information and necessary action.

District Judge, Howrah.