

Misc. Appeal No. 229 of 2025
CNR No. WBHW01 006434 2025

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

Order No. 02 dated 12.12.2025.

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 is the owner in respect of the schedule 'A' property. The other schedule property is the part and parcel of schedule 'A' property. It is stated that by virtue of a registered deed of sale dated 16.05.2024 the appellant acquired the right, title and interest over the scheduled property. It is alleged in the plaint that the 'B' schedule strip of land is going to be encroached by the neighbouring defendants/respondents by way of encroachment when a fencing is being erected by them. Hence, the suit is filed for declaration and injunction. Having filed the suit, the appellant preferred an application for temporary injunction before the learned Trial Court and sought for an ad interim order. The Trial Court refused to pass an ad interim order. Hence, the appeal is filed under order 43 of C.P.C.

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.

Having gone through the record and heard the submission of the learned Advocate, this Court is of the view that a triable issue has been raised by the plaintiff/appellant in his suit. 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. Moreover, it is found that any delay may defeat the purpose of granting injunction.

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 respondents are hereby restrained from encroaching or dispossessing the appellant from the suit schedule property till 09.01.2026.

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.