

Misc. Appeal No. 208 of 2025
CNR No. WBHW01 005787 2025

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

Order No. 02 dated 13.11.2025.

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 submitted by the learned Advocate on behalf of the appellants that Sankar Lal Guchait, Haradhan Guchait and Narayan Guchait, three brothers, jointly owned and possessed by amicable partition in respect of 28 decimals of land and their names were recorded in RSROR. One of the brothers, namely, Sankar Lal Guchait died leaving behind the defendants/respondent nos. 2 and 3 as his heirs. In course of time, those respondents transferred the property in favour of the present plaintiffs/appellants by a registered sale deed dated 21.07.2000. The property is the subject-matter of the suit. However, the plaintiffs came to know that subsequently, the respondent nos. 2 and 3 without having any right, title and interest, executed a deed in favour of the respondent no. 1 on 30.11.2023. So, the suit is filed declaring the right in respect of the suit property and challenging the so-called deed of sale in favour of the respondent no. 1.

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 appears that the deed in favour of the present plaintiffs/appellants is the prior deed executed by the respondent no. 2 and 3 and naturally, after execution of the deed they have no right, title and interest over the said property. Subsequently, a deed surfaced where the respondent nos. 2 and 3 executed a deed in favour of the respondent no. 1 in respect of the property which has already been transferred in favour of the plaintiffs/appellants as per the plaint case.

The learned Trial Court refused to pass an ad interim order of injunction and accordingly, the Misc. Appeal is filed. The appellants

seek an ad interim order of injunction at this stage and it is submitted that the object of granting injunction may be defeated by delay.

Having gone through the record and heard the submission of the learned Advocate, this Court is of the view that a triable question has been raised by the plaintiffs/appellants. 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.

Both appellants and the respondents are hereby directed to maintain status quo in respect of nature, character and possession of the suit property and no alienation of the property be made by any of the parties till 10.12.2025.

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.