

West Bengal Form No. 3702.  
High Court Form No. (j) 3.

HEADING OF JUDGEMENT OF APPEAL.

DISTRICT : HOWRAH  
IN THE COURT OF THE DISTRICT JUDGE, HOWRAH.

Present : *Subhash Kumar Kar*  
District Judge, Howrah  
J.O. Code – WB00592

*Date of Judgment: This Friday, the 17<sup>th</sup> day of April, 2026*

Misc Appeal No. 208 of 2025  
(C.N.R. No. WBHW01-005787-2025)

from the decree/order dt. 24.09.2025 passed by Ld. Civil Judge  
(Junior Division), 1<sup>st</sup> Court, Howrah in Title Suit No. 1408 of 2025

Sunil Kumar Jana & 3 others ..... Appellants

-Vs-

Ganesh Construct & Build Pvt. Ltd. .... Respondent

This appeal coming on this day (or having been heard on) in the  
presence of

Sri Suresh Chandra Das ... Advocate (s) for appellants(s)

Sri Alokendu Pal ... Advocate(s) for Respondent(s)

and having stood for consideration to this day, the Court  
delivered the following Judgment.

## J U D G E M E N T

**1.** The order dated 24.09.2025 passed by the learned Civil Judge (Junior Division), 1<sup>st</sup> Court, Howrah in Title Suit No. 1408 of 2025 is under challenge in this Misc. Appeal.

**2.** The relevant facts giving rise to this Misc. Appeal are as follows:

2.1. The appellants has filed one Title Suit being No. 1408 of 2025 before the said learned Court for declaration and permanent injunction.

2.2. It is pleaded in the said Title Suit that the property measuring about 28 decimals was owned and possessed by Sankar Lal Guchait, Haradhan Guchait, Narayan Ch. Guchait who jointly partitioned the same by virtue of an oral amicable settlement entered into before 1953 and the same was duly reflected in RSROR.

2.3. While the said three brothers were enjoying the said property jointly, one of the brothers namely, Haradhan Guchait transferred a portion of the said property measuring about 9 decimal to the father of the appellants by a deed of sale executed in the year 1985 which was within the knowledge of other brothers as well as the respondent nos. 2 and 3.

2.4. After the death of the father of the appellants, the appellants along with their mother and four sisters jointly inherited the said property which is not the subject matter of the said suit.

2.5. The respondent nos. 2 and 3 being the sons of Sankar Lal Guchait another co-sharer of the suit plot who died leaving behind the respondent nos. 2 and 3 while he was enjoying the separated and demarcated portion against his undivided share, described in schedule 'A' of the plaint and the appellants by a registered deed of sale dated 21.07.2000 purchased the said property from the respondent nos. 2 and 3; but due to some unavoidable circumstances they could not mutate their names in respect of the said property.

2.6. Thereafter, at a recent time it came to their knowledge that the respondent nos. 2 and 3 again transferred the said property to the respondent no. 1 and all on a sudden on 15.09.2005 the respondent no. 1 being accompanied by its associates came on the suit property for taking possession by show of force and invaded into the lawful right, title and interest of the appellants and being found no other alternative, the appellants had filed the aforesaid suit.

3. The learned Judge after hearing the appellants rejected the prayer for ad interim order of temporary injunction by the order impugned.

4. Being aggrieved by and dissatisfied with the said rejection, the appellants herein presented this appeal on the grounds mentioned in the memo of appeal.

**Points for consideration:**

5. i) Whether the learned Trial Court is justified in passing the impugned order; and

ii) Whether the impugned order calls for any interference of this Court.

**Decision with reasons:**

6. It appears from the record that the appellants moved an application under Order 39 Rule 1 and 2 of C.P.C. before this Court and this Court granted an ad interim order of temporary injunction vide Order No. 02 dated 13.11.2025 directing the parties 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 the next date fixed and the said order has been extending from time to time and still it is in force.

7. At the time of hearing, learned Advocate appearing for the appellants submitted that the appellants are the lawful purchaser of the suit property and the respondent nos. 2 and 3 had transferred the said land in their favour by a registered deed of sale dated 21.07.2000 and it further appeared from the deed being No. 7284 for the year 2023 that they again sold the same to the respondent no. 1 illegally and fraudulently and the respondent no. 1 is invading into their right, title and interest in respect of the suit property and therefore, the learned Judge has erred in law by refusing to grant the ad interim order of temporary injunction without considering the prima facie case made out by the appellants in the said Title Suit and it is prayed to make the ad interim order of temporary injunction passed by this Court absolute till the disposal of the petition under Order 39 Rules 1 and 2 of C.P.C. pending in the said Title Suit.

**8.** The learned Advocate for the respondent no. 1 submitted that the respondent no. 1 is a bona fide purchaser of the suit property and prior transfer, if any, was not within their knowledge and since the appellants are not in possession of the suit property, the sale deed dated 21.07.2000 is nothing but a paper transaction and it is prayed to dismiss the appeal.

**10.** On perusal of the documents submitted by both sides, it appears to me that the appellants has made out a prima facie case in respect of the suit property and balance of convenience and inconvenience is in their favour and the learned Trial judge has erred in law as well as in fact while he rejected the prayer for ad interim order of temporary injunction in Title Suit being No. 1408 of 2025 and the order impugned is liable to be set aside.

**10.** Accordingly, the instant Misc. Appeal succeeds.

The memo of appeal is correctly stamped.

**11.** Hence, it is

**ORDERED**

that the instant Misc. Appeal being No. 208 of 2025 is allowed on contest but without any cost and the impugned order dated 24.09.2025 passed by the learned Civil Judge (Junior Division), 1<sup>st</sup> Court, Howrah in Title Suit No. 1408 of 2025 stands set aside and the ad interim order of temporary injunction passed by this Court vide order No. 02 dated 13.11.2025 is made absolute till disposal of the application under Order 39 Rules 1 and 2 of C.P.C. pending in Title Suit No. 1408 of 2025.

Learned Trial Court is directed to dispose of the said application as expeditiously as possible by giving opportunity of being heard to both sides preferably within two months from the date of communication of this order.

Any other petition, if pending, in connection with this Misc. Appeal also stands disposed of.

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

Dictated & corrected by me.

D. J.

District Judge, Howrah.