

Misc. Appeal No. 233 of 2025
CNR No. WBHW01 006463 2025

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

Order No. 02 dated 09.01.2026.

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 appears from the submission of the learned Advocate that the father of the appellant entered the possession of the 'B' schedule suit property forcibly in the year 1976 and being possessed with the same, he died on 04.05.2021. Thereafter the present appellant along with her family members are in exclusive possession and occupation of the suit property. The father of the appellant was in adverse possession with the full knowledge of the owner. So, by lapse of time, the father of the appellant and subsequently, the present appellant acquired title in respect of the suit property. Now, the appellant is claiming that the respondents with the help of some land mafias are seriously trying to dispossess them from the suit property. By showing some documents, the learned Advocate tries to convince this Court that the appellant has been in the suit property since long period.

No doubt, the nature of the possession will be decided at the time of trial in the light of evidence adduced by the parties. It should be decided whether the possession was permissive in nature or at the inception of the possession it was forcibly taken. However, at this stage the appellant has made out a case having triable issue to be decided at the time of hearing. It is also true that if the appellant is dispossessed from the suit property, there is possibility of suffering irreparable loss. In support of his submission, the learned Advocate for the appellant filed a decision of the Hon'ble Supreme Court **Ravinder Kaur Grewal v. Manjit Kaur 2019 (3) ICC 641(SC)**. It is held therein that person in possession cannot be ousted by another without due process of law.

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 considered good prima facie case and the balance of convenience and inconvenience in favour of the appellant, this Court is of the view that an ad interim order of injunction may be granted where irreparable injury is anticipated.

Hence, it is,

O r d e r e d

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 dispossessing the appellant from the 'B' schedule suit property without due course of law till 06.02.2026.

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.