

Misc. Appeal No. 71 of 2026
CNR No. WBHW01 002266 2026
Present: Subhash Kumar Kar,
District Judge, Howrah.
J.O. Code – WB00592

Order No. 02 dated 06.05.2026.

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

Appellants have taken step.

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

Heard learned Advocate appearing for the appellants.

From the record it appears that the Title Suit was brought before the learned Trial Court being Title Suit No. 195 of 2026 and the plaintiffs/appellants 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 rejected by the learned Trial Court by the order dated 13.04.2026 on the ground of not showing any cogent materials in respect of possession of the plaintiffs. Having perused the order impugned, I am of the view that the present appeal involves arguable points and accordingly, it is admitted.

Issue notice upon the respondents.

Fix 05.06.2026 for S/R and A/D.

To date for filing postal receipts showing service.

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 appellants submitted that this Misc. Appeal is directed against the order dated 13.04.2026 passed by the learned Civil Judge, (Senior Division), 1st Court, Howrah refusing the prayer for ad interim order of temporary injunction on the ground of not showing any cogent materials in respect of possession of the plaintiffs and the property is undivided and the defendants are admittedly the co-sharers of the suit property and since the defendants have been creating disturbance in their peaceful possession, it is not possible for the appellants to enjoy the property jointly with the respondents and unless an ad interim order of

temporary injunction is granted in favour of the appellants they will suffer irreparable loss and injury.

On perusal of the copy of the plaint, it appears that this is a suit for declaration and partition simplicitor admitting the defendants as co-sharers in respect of the suit property and it is alleged in the plaint that the respondents are not allowing the appellants to repair the underground water supply running through a common passage and the respondents are denying their right and they are also trying to construct a boundary wall by encircling the specific portion of the undivided property.

Having regard to the materials in record, I am of the view that the appellants have made out a good prima facie case and the balance and inconvenience is also tilted in their favour and at this stage, unless an order of ad interim order of temporary injunction is granted, there is chance of causing irreparable injury to the appellants and in that premises, I am inclined to allow the prayer for ad interim order of temporary injunction.

Hence, let there be an ad interim order of temporary injunction directing the parties to maintain status quo in respect of nature, character and possession of the suit property as on today till the next date fixed.

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.

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.