

**Title Suit 165 of 2023**

**Order No. 2 dated 03.01.2024**

Today the record is placed before me by way of put up.

Ld. Advocate for the plaintiff moves the petition for an order of ad interim injunction U/O 39 Rule 1 and 2 read with section 151 CPC.

No caveat is pending in this case as per the report of the Sheristadar.

Ld. Advocate for the plaintiff files some documents by firisti. Xerox copies of the documents are with the record.

Now, let us consider whether on the basis of the statement made on affidavit by the plaintiff and the documents filed by him, an order of ad interim injunction as prayed for can be granted at this stage prior to the issuance of notice upon the defendants against whom the said prayer of ad interim injunction is made.

Heard the Ld. Advocate. Perused the said injunction petition, plaint and documents filed by the plaintiff and considered.

Now, the record is taken up for passing order.

This is a suit for declaration and injunction.

**:- Case of the plaintiff :-**

The case of the plaintiff in a nutshell is that the plaintiff and defendants are the owner of the 'Ka' and 'Kha' schedule suit property. Now there is a passage in the 'Kha' schedule suit property which is being used by the plaintiff for egress and ingress in the 'Ka' schedule suit property. The passage is the 'A' schedule suit property. The defendants are trying to create obstruction in the enjoyment of the 'A' schedule suit property by raising construction thereon. Hence the plaintiff has come before the Court with folded hands for grant of temporary injunction by restraining the defendants from raising any construction on the 'A' schedule suit property.

**DECISION WITH REASONS**

Now, the Court has to decide whether on the basis of the documents submitted by the plaintiff as well as from the verbal submission of the Ld. Advocate this Court can grant an ex parte order of ad interim injunction in favour of the plaintiff or not.

Upon a close inspection to the matter and considering the entire facts and circumstances of the case, on perusal of the injunction application as well as affidavit and relevant documents submitted by the plaintiff, this Court is of the opinion that at this stage without hearing the defendants a blanket order of ad interim injunction cannot be granted to the plaintiff. Therefore, this Court, standing upon the situation and considering the facts and circumstances, holds that the balance of convenience and inconvenience does not weigh in favour of the plaintiff. Further the Court thinks that without the order of injunction the plaintiff shall not suffer irreparable loss and injury. In view of the above circumstances prayer for ad-interim injunction is refused at this stage.

Contd....

**Title Suit 165 of 2023**

**Order No. 2**

Hence, it is

**ORDERED**

that the ad-interim injunction as prayed for is hereby refused.

Issue notice upon the defendants by calling him to file show-cause within **15 days** on receipt of this notice as to why temporary injunction shall not be granted as per prayer of the plaintiff.

**D/c by me**

**CJ**

**Civil Judge (Jr Divn)  
Amta, Howrah**