

In the court of Additional District Judge, 1st Court, Uluberia, Howrah.
Misc. Appeal 14/2026 (Title Suit 78/2026)
Present : Anirban Chowdhury (JO Code: WB 00814)

Order No. 3 dated 11.05.2026

Today is fixed for hearing of stay petition.

Appellant files hazira. Copies of some documents have been submitted under cover of firisti.

Heard the prayer for ad interim stay.

Heard. Considered.

It has been reported from office that no caveat is pending.

Appeal has been preferred on 02.05.2026 against the impugned order dated 07.04.2026 which is within time. Hence appeal is admitted.

Issue notice upon the respondents directing them to show causes within 7 days from receipt of the notice as to why the prayer for order of temporary injunction shall not be allowed.

As regard to the prayer for ad interim order of stay I find that Ld. Judge allowed prayer for ad interim injunction considering the necessity of preservation of the property in the suit wherein partition of undivided property has been prayed for.

Respondents instituted the suit seeking partition and permanent injunction and other allied relief claiming their status as co sharer in respect of the suit property. Appellant contended that the parties are admittedly possessing their respective portions demarcating the same and exclusively, constructing their respective houses.

In this appeal the appellant contended that Ld. Judge misconstrued the principles of law relating to grant of injunction and thus misdirected the appreciation of facts prima facie. It has been argued that the prayer for ad interim injunction was submitted suppressing material facts about institution of earlier suits only for thwarting certain benefits which the appellant is entitled to on account of government scheme.

Copies of some documents have been submitted wherefrom it appears that appellant and others instituted suit for partition and permanent injunction against respondent No.1 before the Ld. Civil Judge(Junior Division), Amta which has been registered as Title suit No. 80/2025. Suppressing that fact this suit the T.S. No. 78 of 26 has instituted before the Civil Judge (Senior Division), 2nd Court, Uluberia.

It is obvious that subject matter of the suit in question falls within the jurisdiction of Joypur P.S.

The present Miscellaneous Appeal has been preferred under Order XLIII Rule I(r) of the Code of Civil Procedure, 1908, challenging the order dated 28.04.2025 passed by the Ld. Civil Judge (Senior Division), 2nd Court, Uluberia in T.S. No. 78 of 26. Aggrieved thereby, this appeal was instituted before this Court along with the prayer for stay.

By a notification of the Government vide No. 258-JD/X dated 07.12.2023 the Court of Additional District Judge, Amta, has been vested with necessary powers to take filing of appeals of Amta jurisdiction on the basis of Hon'ble Court's letter No. 7123A dated 24.11.2023.

Apparently, the object of such allocation is to decentralise judicial work and ensure that litigants of Amta are not required to travel to Uluberia for appellate relief, on the basis of representation submitted by Amta Bar Association and subsequent reports of Ld. District Judge, Howrah. It can be learnt further from such notification that "such powers to take filing of all Suits, Appeals etc. of Amta jurisdiction that was previously entrusted to the Additional District and Sessions Judge, 1st Court, Uluberia is withdrawn".

Thus, while the trial jurisdiction was correctly assumed by Ld. Civil Judge (Sr. Div.), 2nd Court, Uluberia owing to pecuniary limits, the appellate forum is controlled not merely by situs of the trial court but also by the location of the subject matter as defined in the aforesaid notification which specifies that where the property lies at Amta, the appellate power vests exclusively in the Additional District Judge at Amta. Obviously this Court is bound to address the question, as jurisdiction is a matter of public policy.

For the reasons aforesaid, I hold that this Court lacks territorial appellate jurisdiction to entertain Misc. Appeal No. 14 of 2026, in as much as the property in dispute lies within Joypur P.S., District Howrah, and appellate jurisdiction over such matters has been vested in the Court of the Ld. Additional District Judge, Amta.

Resultantly, this appeal is directed to be transferred to the Court of the Ld. Additional District Judge, Amta, at once, which alone is competent to decide it. Parties are directed to appear before the Court of Ld. Additional District Judge, Amta, on 09.06.2026 for getting further instructions in respect of the appeal.

For ends of justice and also for enabling the appellant to pursue the appeal before the appropriate forum, the impugned order is stayed till 09.06.2026.

The office is directed to forthwith transmit the entire record to the Court of the Additional District Judge, Amta, without delay along with a copy of this order.

Let a copy of this order be sent to the Ld. Civil Judge(Senior Division), 2nd Court, Uluberia and information.

Note in CIS.

Office to take note and comply.

Sd/-

Dictated and corrected by me.

Additional District Judge,
1st Court, Uluberia, Howrah.

Sd/-

Additional District Judge,
1st Court, Uluberia, Howrah.