

In the Court of Additional District Judge, 1st Court, Uluberia, Howrah

Present: Atrayee Manna Chowdhury, A.D.J. 2nd Court, Uluberia In-charge of ADJ 1st Court, Uluberia, Howrah (J.O. Code :WB 00848)

Misc. Appeal 07/26 (CIS Reg. no. 07/26)
CNR NO.WBHW09-000246-2026

Order no.03
dated: 09.03.26

Today is fixed for hearing.

Appellant files hazira.

Appellant also files copies of some documents under cover of firisti.

This miscellaneous appeal has been preferred by the appellant against the order dated 05.02.2026 passed by the learned Civil Judge (Junior Division), 1st Court, Uluberia in Title Suit No. 47 of 2026, whereby the learned trial court directed the parties to maintain status quo with regard to the possession, nature and character of the schedule "B" property.

The appellant has also filed an application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure praying for an order restraining the respondents, particularly respondent no.3, from interfering with or creating obstruction in the development work and construction of boundary wall over the suit property during the pendency of the appeal and the suit.

The appeal having been presented within the statutory period of limitation, the same is taken up for consideration at this stage in connection with the prayer of the appellant for ad-interim injunction.

Accordingly, the petition under order 39 rule 1 and 2 r/w S.151 of the C.P.Code is heard on the prayer of the appellant *ex parte*.

Issue notice upon the respondents to show cause within seven days from the receipt of the same as to why the petition under order 39 rule 1 and 2 of the C.P.Code shall not be allowed.

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

From the documents it appears that the appellant has instituted the suit seeking, inter alia, a decree directing respondent nos.1 and 2 to accept the balance consideration and execute a registered deed of sale in respect of the suit property in favour of the appellant on the basis of an agreement for sale dated 03.01.2015. The appellant has also sought declaration that he is in lawful possession of the suit property by virtue of the said agreement and has further prayed for permanent as well as

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mandatory injunction restraining the defendants from interfering with his possession and development activities over the suit land.

The case of the appellant, as disclosed in the plaint and the materials placed on record, is that respondent nos.1 and 2, after purchasing the suit property, entered into an agreement for sale dated 03.01.2015 with the appellant for a total consideration of Rs.70,00,000/-, out of which a sum of Rs.10,00,000/- was paid as advance. It has been alleged that under the said agreement the vendors agreed to deliver possession of the property to the appellant and also authorised him to undertake development work thereon at his own cost and expenses. According to the appellant, possession of the property was accordingly delivered to him and he thereafter invested substantial amount of money in developing the land and commenced construction of boundary wall and other works. The appellant further contends that despite repeated requests and legal notices calling upon respondent nos.1 and 2 to receive the balance consideration and execute the deed of sale, the execution of the sale deed was deferred on one pretext or another.

The appellant has further alleged that while the development work was in progress respondent no.3, who according to the appellant has no right, title or interest over the suit property, started interfering with the work, threatened the labourers and demanded money for allowing continuation of such development activities. It is also alleged that the appellant had earlier approached the Executive Magistrate, Uluberia by initiating a proceeding under Section 126 of the Bharatiya Nagarik Suraksha Sanhita, wherein the police authorities were directed to maintain law and order and to conduct enquiry. According to the appellant, despite such steps respondent no.3 continued to create obstruction in the peaceful enjoyment and development of the property, compelling the appellant to institute the present suit and seek injunction.

Perusal of the impugned order reveals that the learned trial court, upon considering the pleadings and the documents produced by the appellant, including the agreement for sale, the legal notices exchanged between the parties and the order passed by the Executive Magistrate, came to the prima facie conclusion that the appellant appears to be in possession of the schedule "B" property. Upon such prima facie finding the learned trial court considered it appropriate, at that stage and in absence of the defendants, to pass an order directing both sides to maintain status quo with respect to the possession, nature and character of the property for the

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purpose of preserving the subject matter of the suit until hearing of the application for temporary injunction.

At this stage, the materials on record do give rise to a prima facie inference that the appellant has been exercising possession or control over the suit land.

At the same time, it is equally settled that the subject matter of the litigation be preserved until the rival claims of the parties are examined in detail by the trial court.

On the other hand if at this stage an order is passed permitting unrestricted construction or development over the property, the nature and character of the land may undergo substantial alteration, which may complicate the final adjudication of the suit. Questions relating to status of the respondent no. 3 qua the suit property and his alleged conduct are questions of fact which call for dissemination of evidence. An order of status quo, on the other hand is essentially a protective measure intended to maintain the existing state of affairs until the parties are heard on the injunction application.

That being the position, I shall refrain from granting any *ad interim* relief in favour of the appellant deviating from the order dated 05.02.2026 passed by the learned Civil Judge (Junior Division), 1st Court, Uluberia in Title Suit No. 47 of 2026, without providing any opportunity to the respondents to represent their version.

Hence, it is,

ORDERED

That the ad interim prayer for temporary injunction of the appellants is rejected at this stage on an *ex-parte* basis without any order as to costs.

Call for TCR.

Todate (25.08.2026) for awaiting TCR and S/R of defendants.

Dictated & Corrected by

Additional District Judge,(I/C)
1st Court, Uluberia, Howrah

Additional District Judge,(I/C)
1st Court, Uluberia, Howrah