

|      **In the Court of Civil Judge (Jr. Divn.) 1<sup>st</sup> Court, Baruipur**  
**Present: Debasmita Kundu**  
**Civil Judge (Jr. Divn.)**  
**J.O. Code: WB1404**  
**T.S. 720 of 2022**  
**CNR No. WBSPOE-001007-2022**

**Order No. 02, Date: 10.11.2022,**

A put-up petition is filed by the Plaintiff for the reasons stated therein.  
Heard. Perused. Considered and **allowed**.

The Ld. Adv. for the Plaintiff filed an application for injunction today along with another petition praying for hearing of U/O 39 rule 1(a)(b)(c) r/w Section 151 of CPC application at this stage. The Ld. Adv. for the Plaintiff submits that hearing of ad interim injunction application is very urgent at this stage; otherwise the Plaintiff may suffer irreparable loss and injury.

Heard. Perused. Considered. **Allowed**.

Now, record is taken up for hearing the ad interim injunction application under Order XXXIX Rule 1(a)(b)(c) read with section 151 of the Code of Civil Procedure. The Ld. Adv. for the Plaintiff submits that hearing of ad interim injunction application is very urgent at this stage; otherwise the Plaintiff may suffer irreparable loss and injury.

As per report of the Sheristadar no caveat is pending as on this date.

Heard the Ld. Adv. for the Plaintiff. Perused the plaint, application for temporary injunction under Order XXXIX Rule 1(a)(b)(c) read with section 151 of the Code of Civil Procedure and other materials available in the record. Considered.

This is a suit for declaration, permanent injunction and consequential reliefs.

The Plaintiff by filing the injunction application and by filing supporting documents is stating that he has a good prima facie case. Plaintiff claims himself to be the co-sharer of the suit property. Though it is a good prima facie to go into the trial and also he has failed to submit any documents in his favour at this stage to prove the urgency to allow restraining order against the Defendant which is the necessary part for considering the prayer of the Plaintiff at this prima-facie stage. From the averments made in the plaint and from the documents filed herewith it appears no documents as produced by the Plaintiff is sufficient enough at this stage to raise presumption of urgency to allow restraining order against the Defendant which is the necessary part for considering the prayer of the Plaintiff at this prima-facie stage. It appears that the reason or urgency for which the Plaintiff has constrained to pray for the injunction against the Defendant at this stage is not so clear. The dispute as mentioned in the plaint is of such a nature that without having heard the side of the defendant, there is no scope to identify the dispute properly at this prima-facie stage.

Considering the facts and circumstances, the Court is of the opinion that the balance of convenience and inconvenience is not in favour of the Plaintiff at this stage. So, that I do not find it proper and necessary to pass any restraining order at this pre-trial stage without giving any opportunity of being heard to the Defendant.

Accordingly, I am not inclined to pass any restraining order against the Defendant in favour of the Plaintiff at this stage.

Hence, it is,

**ORDERED**

**that the prayer for ad interim injunction under Order XXXIX Rule 1 (a) (b) (c) read with section 151 of Code of Code of Civil Procedure is considered and rejected without any order as to cost at this stage.**

The Defendant is directed to show cause within 15 days from the date of receipt of the notice as to why the Plaintiff's prayer of temporary injunction shall not be allowed against the Defendant.

**Issue notice upon the Defendant at once.**

**To date (06.02.2023)**

D/C by me:

Sd/-(D. Kundu)

Civil Judge (Jr. Divn.) 1<sup>st</sup> Court  
Baruipur, South 24-Parganas,  
10.11.2022

Sd/-(D. Kundu)

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