

Title Suit No.172 of 2026
CNR-WBSP02-000380-2026

JO Code: WB01189

Order dated 05.02.2026

Record is put up by petition on behalf of the Plaintiff.

Ld. Advocate for the Plaintiff files and intends to move application under Order 39, Rule 1 & 2 of the C.P.C with ad-interim rules. Seen the report of the concerned clerk to the effect that there is no caveat till 12:40 p.m.

Heard Ld. Advocate for the Plaintiff.

Perused the said application the plaint, affidavit and the documents filed by the Plaintiff.

Considered.

This is a suit for declaration, partition and permanent injunction.

Ld.Advocate for Plaintiff at the time of hearing reiterates the contents of the application under consideration. Ld. Advocate submits that one Tara Basu Mazumdar had acquired legal title over the suit property morefully described in schedule of the application by virtue of registered deed of conveyance. Ld. Advocate submits that the plaintiff and the principal defendant have acquired absolute joint interest in the suit property by virtue of law of inheritance. Ld. Advocate submits that for proper management and development of the suit property, the parties to this suit entered into impugned Memorandum of Undertaking dated 230.8.2021 with general power of attorney but despite passing of more than four years the proforma defendants took no steps as per the terms of the agreement. Ld. Advocate submits that the principal defendant and the proforma defendants in collusion with each other are trying to dispossess the plaintiff from the suit property and further pressurizing the plaintiff to release all his title and interest in exchange of lump sum amount. Ld. Advocate submits that the plaintiff has even revoked the general power of attorney dated 06.06.2019 apprehending serious loss and damage and mismanagement of the suit property. Ld. Advocate submits that the plaintiff will suffer irreparable loss if an order of injunction is not passed against the defendants. Ld. Advocate further submits that there is urgency in the matter as the defendants are trying to grab the entire suit property and the defendants may create third party interest over the same at any point of time to deprive the legitimate right of the plaintiff over the suit property. Hence, this application.

As regard to the prayer for issuance of ad interim rule is concerned, on the basis of the facts of the case as stated in the application and the documents produced by the Plaintiff, it appears to this Court that the Plaintiff has been able to raise a fair and arguable question for trial. The documents filed at this stage, prima facie, supports the case presented by Plaintiff. Now, at this juncture, considering the circumstances in hand along with the documents filed, this Court is of the opinion that, if an order of injunction is not passed at this stage, the objective of temporary injunction may be defeated due to delay and further multiplicity of suits may arise. Further, considering the facts and the circumstances in hand, this Court is of the opinion that chances of injury to the Plaintiff is more in case of refusal of ad-interim injunction than the defendants in case of passing an order of ad interim injunction, in this matter. Therefore, the balance of convenience and inconvenience is in favour of the Plaintiff. Thus, this court finds it necessary to preserve the title, nature, character and possession over the suit property. Therefore, to protect the suit property and in order to avoid future multiplicity of litigation this court is inclined to allow the prayer for ad-interim injunction in the form of status quo.

Hence, it is

Ordered

that the prayer for ad-interim injunction is considered and allowed but without any cost.

Both the plaintiff and the defendants are hereby directed to maintain status quo, on material points, as on today, in respect of title, nature, character and possession of suit property in any manner or form till 23.03.2026.

Issue notice calling upon Defendants to show cause within 28 days from the date of receipt thereof as to why the prayer of the Plaintiff for temporary injunction shall not be granted.

Requisites at once.

Plaintiff to comply the provisions of Order 39, Rule 3 (a) & (b) CPC.

To date for S.R of notice.

Dictated and corrected by me

sd/-

5th Court, Civil Judge (Sr. Divn), Alipore

sd/-

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