

Dated : 09/06/2025

Today is fixed for passing order.

Both the contesting sides file their respective haziras.

Ld. Advocate for defendant also files an application on the ground stated therein.

Now the record is taken up for passing order.

By filing application dtd. 03/05/2024 defendant filed an application u/O VII Rule 11 of CPC. By filing the application defendant submits plaintiff has instituted this suit against defendant for declaration of right, title and interest in the suit property. Subsequently, ad interim injunction was allowed wherein defendant was restrained from disturbing the development undertaken by the plaintiff no. 2. Defendant submits that there has been one suit already filed before this Court wherein T.S. No. 302 of 2021 and another case being T.S. 782 of 2021 is already pending before Ld. Civil Judge (Sr. Divin.) at Barasat. Further more, one application before Hon'ble High Court was filed bearing no. FMT No. 236 of 2023 which was dismissed for being non maintainable. Defendant further submits that mother of present petitioner received a copy of application with an interim order of Ld. Commercial Court at Rajarhat in Misc. Case no. 44 of 2023 moved by plaintiff no. 2 alleging that respondents obstructing the construction of the work of the petitioner despite of Development Agreement and Power of Attorney and the petitioner invested a lump sum amount of Rs. 2 crore and Rs. 50 lakhs and the Ld. Court was pleased to grant an interim order restraining the respondent/petitioner from interfering the construction work. Defendant stated that the said application was filed suppressing all facts and after receiving the summons respondent no. 2 contested the same and after hearing Ld. Court was pleased to dispose off the application observing that the petitioners sought the interim order in respect of the self same property in favour of his right when already injunction order is also subsisting, title suit is already pending in respect of the undivided land and pendency of suit along with injunction order this Court cannot grant any interim order in respect of self same property in different proceeding which shall interfere with course of the suit and result in conflict of decisions.

Plaintiff objected to the said application by filing WO. By filing the said application plaintiff submits that application u/O VII Rule 11 of CPC. It does not disclose any of the grounds mentioned for rejection of plaint. Thus, the said application needs to be dismissed with exemplary costs.

Perused the case record.

On perusal it transpires that the application filed by the defendant is with respect to Order VII Rule 11 of CPC. It is trite to mention here that the said Order deals with rejection of plaint on specific grounds as mentioned in the legislature.

“Rejection of plaint – “(a) Where it does not disclose a cause of action ;

(b) where the relief claimed is undervalued, and the plaintiff on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

Title Suit No. 101 of 2024

Contd...Order dated : 09/06/2025

*(d) where the suit appears from the statement in the plaint to be barred by any law.....provided.....plaintiff;*  
*(e) where it is not filed in duplicate;*  
*(f) where the plaintiff fails to comply with the provision of rule 9;”.*

From the perusal of the application of defendant no cogent ground of Order VII Rule 11 of CPC is reflected. Defendant has filed this application stating how plaintiff has obtained an order of ad interim injunction by suppressing the materials facts. In the entire application not a single fact has been stated wherein any element of Order VII Rule 11 of CPC can be ascertained.

Thus, this Court is of the opinion that the application filed by defendant on 03/05/2024 is misconceived, vague and ambiguous, hence the said application is rejected.

Hence it is

O R D E R E D

that the application dtd.03/05/2024 filed by defendant is heard and rejected on contest subject to the payment of cost of Rs. 1000/- to be paid to SDLSC, Bidhannagar.

As plaintiff has failed to file any extension of ad interim injunction, thus the ad interim injunction is vacated.

Fix **07/08/2025** for injunction hearing.

Civil Judge (Jr. Divin.)  
J.O.Code (WB 01536)