

IN THE COURT OF DISTRICT JUDGE,
SOUTH 24-PARGANAS AT ALIPORE

Misc. Appeal No. 33 of 2026 (R-33)

Present : Sri Biswarup Bandyopadhyay (WB01133) District Judge at Alipore

Mr. Ankit Gupta and Anr.

... Appellants

Vs.

Sri Asim Ranjan Mondal

... Respondent

Order No. 02, dated 11.02.2026

The record is taken up today on the basis of a put-up petition filed on behalf of the appellants along with an application filed under Order XXXIX Rules 1 and 2 read with Section 151 of C.P.C.

Ld. Advocate for the appellant prays for moving of the application filed under Order XXXIX Rules 1 and 2 read with Section 151 of C.P.C.

As per office report, no caveat has been filed.

As such, the application for temporary injunction is taken up for hearing in respect of the ad-interim prayer.

Ld. Advocate for the appellants/plaintiffs submits that the appellants are the joint owners in respect of property described in schedule 'A' of the instant application by purchasing the same from one Jogendra Nath Gupta by virtue of a registered Deed of Conveyance dated 6th August, 2024. Subsequently, the appellants mutated their names in respect of the schedule 'A' property before the Kolkata Municipal Corporation and are enjoying possession of the suit

property. Ld. Advocate further submits that the appellants and respondent along with other flat owners are entitled to use the common areas of the suit property, however, the respondent is trying to encroach upon the common areas of the suit property and on 03.01.2026, the respondent along with the aid of some local hoodlums encroached upon the common areas and when the appellants and other occupants tried to resist the respondent from such illegal acts, the respondent threatened the appellants with dire consequences. Ld. Advocate also submits that the respondent has threatened to encroach upon the area of the appellants where the exclusive overhead tank of the appellants is fixed (as described in schedule 'C' of the injunction application) and on 05.01.2026, the respondent caused nuisance and disturbance. Ld. Advocate further contends that the appellants informed the illegal acts of the respondent before the local P.S., but to no avail and, thereafter, filed one application under Section 163(2) of B.N.S.S., being M.P. Case No. 27 of 2026. Ld. Advocate further submits that finding no alternative, the appellants were also compelled to file a Title Suit, bearing No. 56 of 2026, for declaration, mandatory injunction and permanent injunction, before the Ld. Trial Court along with an application for temporary injunction praying for an order of ad-interim injunction, however, such prayer was refused by the Ld. Trial Court. Being aggrieved with the same, the appellants have preferred the instant appeal along with an application for temporary injunction praying for an order of ad-interim injunction.

Heard the submission of the Ld. Advocate for the appellants.

Perused the record and the documents annexed herewith being the photocopies of the impugned order, plaint of Title Suit No. 56 of 2026, application for temporary injunction filed before the Ld. Trial Court, Deed of Conveyance dated 6th August, 2024, Building Plan, Mutation Certificate,

complaint made before the Lake P.S., Aadhaar Cards, etc.

Upon hearing the submissions made by the Ld. Advocate for the appellants and upon appraisal of the materials on record, it, *prima facie*, appears that one registered Deed of Conveyance was executed in between the appellants (being the purchasers) and one Jogendra Nath Gupta (being the vendor) in respect of the schedule-mentioned property at a consideration price of Rs. 30 lacs. It further appears that, subsequently, the appellants registered the suit property and mutated their names before the K.M.C. It appears, *prima facie*, from the Aadhaar Cards of the appellants that they are in possession of the suit property. It has been averred in the instant application for temporary injunction, that has been supported by an affidavit, that the respondent is trying to encroach upon the schedule 'C' property wherein the exclusive overhead tank of the appellants is situated and to that effect, the appellants filed a police complaint before the local P.S.

Therefore, regard being had to the above facts and circumstances, this Court is of the view that the appellants have been able to make out a *prima facie* case in their favour and the balance of convenience and inconvenience is also tilting in favour of the appellants. If, at this stage, an order of ad-interim injunction is not passed in favour of the appellants, then the appellants will suffer from irreparable loss and injury and the very purpose of filing the suit and the appeal would be rendered infructuous by delay. Refusal to pass an order of ad-interim injunction would cause more prejudice to the appellants than grant of it would cause to the respondent. As such, this Court is of the view that for a very restrictive period till hearing the respondent, a protective order needs to be passed in favour of the appellants so that the respondent does not encroach upon the common spaces without due course of law.

Hence,

it is,

ORDERED

that the prayer for an order of ad-interim injunction in favour of the appellants is considered and allowed for a restricted period till **07.03.2026**.

Both the parties to the instant Misc. Appeal are directed to maintain status quo as regards nature, character and possession of the common areas as described in the schedules of the application for temporary injunction till **07.03.2026**.

The appellants are directed to comply with the provisions enumerated under Order XXXIX Rule 3(a) and 3(b) of C.P.C.

The injunction application filed by the appellant shall be heard on merits upon giving the respondent an opportunity of being heard. The observations made herein with reference to the injunction application are merely on the basis of *prima facie* hearing.

It is made clear herein that the order passed hereinabove should not be treated as an opinion regarding right or entitlement of any party on any portion of the common areas of the suit premises.

Issue notice upon the respondent asking him to show cause by the next date fixed as to why the instant appeal, along with the interlocutory application, filed by the appellants shall not be allowed.

To date **04.05.2026** for S/R and A/D, show-cause by the respondent and hearing.

Dictated & corrected by me,

Sd/- Sri Biswarup Bandyopadhyay

District Judge

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