

IN THE COURT OF DISTRICT JUDGE,

SOUTH 24-PARGANAS AT ALIPORE

Misc. Appeal No. 130 of 2026 (R-130)

Present : Smt. Monikuntala Roy (WB01088) District Judge-in-charge

SRI AVIJIT GHOSHAL

... APPELLANT

VS.

CHINGRIGHATA MATSYA ARATDER SAMITI

... RESPONDENT

Order No. 02, dated 15.06.2026

The record is taken up today at the instance of a put-up petition filed on behalf of the appellant.

Ld. Advocate for the appellant prays for moving the application under Order XXXIX Rules 1 and 2 read with Section 151 of C.P.C. that has been filed on behalf of the appellant on 02.06.2026.

As per office report, no caveat has been filed.

As such, the application filed under Order XXXIX Rules 1 and 2 read with Section 151 of C.P.C. is taken up for hearing.

The case of the appellant, in a nutshell, is that the appellant and the respondent executed a Resolution along with other members of Society and the appellant paid a sum of Rs. 7,00,000/- on 12.08.2021 to the respondent to be a

member of the Society and in terms of said deposit, the appellant was allotted a Stall being no. 45 with effect from 13.08.2021 by the President of the respondent. Thereafter, the appellant applied for and obtained Trade License from the K.M.C and is paying License Fee in that regard. The appellant's further case is that the appellant is in possession of the suit property. It has been alleged on behalf of the appellant that some members of the respondent are trying to do overt acts, atrocities, threats and violence and are attempting to assault the appellant and in that regard, the appellant lodged a complaint before the local P.S., but to no avail.

Finding no alternative, the appellant, as plaintiff, was compelled to file a suit, being Title Suit No. 571 of 2026, for declaration and permanent injunction before the Ld. Trial Court along with an application under Order XXXIX Rules 1 and 2 read with Section 151 of C.P.C. with a prayer for an order of ad-interim injunction which the Ld. Trial Court refused. As such, the appellant has filed the instant Misc. Appeal along with an application under Order XXXIX Rules 1 and 2 read with Section 151 of C.P.C. praying for an order of ad-interim injunction.

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

Perused the record and the materials annexed with the record.

Considering the materials available on record and the averments made in the application for temporary injunction, which has been supported by an affidavit, it, *prima facie*, appears that the appellant paid Rs. 7,00,000/- in favour of the respondent in respect of allotment of a stall and on 13.08.2021, the respondent wrote a letter to the appellant informing him that Stall No. 45 has been allotted to him and requested the appellant to take immediate possession. It also, *prima facie*, appears from the Trade License issued by the K.M.C for the

year 2026-2027 that the appellant is doing business and paying license fee in respect of his business. It has been averred in the instant application, that has been supported by an affidavit, that the respondent is trying to do overt acts, atrocities, threats and violence and are attempting to assault the appellant and in that regard, the appellant lodged a complaint before the local P.S.

Therefore, considering the above facts and circumstances, this Court is of the view that the appellant has been able to make out a *prima facie* case in his favour and the balance of convenience and inconvenience is also in favour of the appellants. If, at this stage, an order of ad-interim injunction is not granted in favour of the appellant, then the appellant will suffer irreparable loss and injury and purpose of filing the instant appeal will be rendered infructuous. There may also arise chances of multiplicity of proceedings if an order of ad-interim injunction is refused at this stage. Refusal to pass an order of ad-interim injunction would cause more harm to the appellant than grant of it would cause to the respondent.

Hence,

it is,

ORDERED

that the prayer for an order of ad-interim injunction is allowed in favour of the appellant for a restricted period till hearing the respondent till **15.07.2026**.

The respondent and its men, agents and associates are, hereby, restrained from making any acts and overt acts, atrocities, threats or violence and attempts of assault against the appellant and his labours, staff, employees and damages to the raw fish products in respect of the schedule as described in the injunction application till **15.07.2026**.

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

Issue notice upon the respondent asking it to show cause within 15 (fifteen) days from receipt thereof as to why the instant Misc. Appeal, along with the temporary injunction, shall not be allowed in favour of the appellant.

To date i.e. on **24.08.2026**.

Dictated & corrected by me,

Sd/- Smt. Monikuntala Roy
District Judge, I/c

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