

IN THE COURT OF DISTRICT JUDGE,

SOUTH 24-PARGANAS AT ALIPORE

**Misc. Appeal No. 208 of 2025 (R-208)**

**CNR No. WBSP01-009270-2025**

Present : Smt. Madhumita Chowdhury (WB00954), District Judge-in-charge,

**Dinesh Shaw**

**... Appellant/Plaintiff**

**Vs.**

**Bansh Raj Prajapati & Ors.**

**... Respondents/Defendants**

**Order No. 02, dated 11.07.2025**

The record is put up today at the behest of the petitioner.

The instant Misc. Appeal under Order 43 Rule 1(r) is at the instance of the appellant against the respondents to impeach the order dated 03.06.2025 passed by the Ld. Additional Civil Judge (Jr. Divn.) , 2<sup>nd</sup> Court at Alipore in Title Suit No. 990 of 2023.

As the appeal is filed within the period of Limitation. As such, the appeal is admitted.

Ld. Advocate for the appellant/plaintiff files an application under Order XXXIX Rule 1 and 2 read with Section 151 of C.P.C.

No caveat is filed as per note of the Sheristadar.

As such, the record is taken up for hearing of the ad-interim prayer of injunction of the appellant/plaintiff.

The contention of the appellant/plaintiff, in a nutshell, is that the appellant is the tenant in respect of the premises No. B/49/5/H/184, Karl Marx Sarani, P.S. South Port, Kolkata- 700 023 at a monthly rental of Rs. 450/- per month and he runs a grocery shop in the said tenanted room having trade licence issued by the KMC. It is also the case of the appellant/plaintiff that as the defendants intent to evict the plaintiff/appellant, they refused to accept the monthly rent from the month of February, 2017 and thereafter, the appellant/plaintiff used to deposit the monthly rent before the Rent Controller. It is stated that the defendant no.2 as a Developer who has regularly threatening the appellant/plaintiff for erecting a new multi storied building by demolishing the present suit property. It is contended that he has to maintain his large family from the said grocery business and if they forcefully oust the appellant/plaintiff from the said suit shop, he has no other alternative but to die.

Being aggrieved with the same, the appellant, being the plaintiff, was compelled to file a suit, being Title Suit No. 990 of 2023, 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/

plaintiff 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.

To fortify such contentions, the appellant/plaintiff has filed photocopy of documents being copy of Plaint of Title Suit No. 990 of 2025, certified copy of Order dated 10.07.2023 passed by the Ld. Additional Civil Judge (Jr. Divn.), 2<sup>nd</sup> Court, Alipore, etc.

Heard the submissions made on behalf of the appellant/plaintiff.

Perused the record and the materials annexed therewith.

After considering the pleading, application for injunction and other materials on record it appears that prima facie the plaintiff/appellant is occupying the suit shop room and running of business thereon. At this stage, it is not possible to ascertain whether the plaintiff / appellant is a tenant under West Bengal Premises Tenancy Act or a Bharatia under West Bengal Thika Tenancy Act.

The cardinal principle law is that nobody should be evict from the property without due process of law and thus the balance of convenience and inconvenience and irreparable loss and injury are tilted in favour of the plaintiff/appellant. If no injunction is granted and suit shop room is demolished then the plaintiff/appellant will be highly prejudiced and the purpose of filing the suit will be frustrated. Hence, considering the urgency of the matter I am inclined to grant ad interim order of injunction inn favour of the plaintiff/appellant.

Hence, it is,

**ORDERED**

that the prayer for an order of ad-interim injunction is, hereby, granted in favour of the appellant/plaintiff till **04.08.2025**.

The respondents/defendants and their men and agents are hereby restrained from demolishing the suit shop room till next date.

The appellant/plaintiff is directed to comply with the provisions enumerated under Order 39 Rules 3(a) and 3(b) of C.P.C.

Issue notice upon the respondents/defendants asking them to show cause within 15 (fifteen) days from receipt thereof as to why the instant Misc. Appeal shall not be allowed.

Fix **04.08.2025** for S/R and A/D.

Dictated and corrected by me  
Sd/- Madhumita Chowdhury  
District Judge I/c

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District Judge I/c  
(WB00954)