

IN THE COURT OF DISTRICT JUDGE,

SOUTH 24-PARGANAS AT ALIPORE

Misc. Appeal No. 325 of 2025

CNR No. WBSP01-013849-2025

Present : Sri Chinmay Chattopadhyay-II (WB00695) District Judge-in-charge,

Bimal Kanti Bal

... Appellant

VS.

Mrinal Kanti Bal & Ors.

... Respondents

Order No. 01, dated 22.09.2025

The instant Misc. Appeal under Order 43 Rule 1(r) is at the instance of the appellants against the respondents to impeach the order dated 11.09.2025 passed by the Ld. Civil Judge (Sr. Divn.) 7th Court at Alipore in Title Suit No. 1413 of 2025.

Court fees paid by the appellant is correct.

Certified copy of the impugned order has been filed.

Register.

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

Requisites filed by the appellant.

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 the note of the Sheristadar.

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

Ld. Advocate for the appellant/plaintiff submits that the suit property measuring approximately 61 decimals with dwelling houses, is a joint property of the parties herein. The property originally belonged to their predecessor-in-interest, Late Nagendra Nath Bal and subsequently, upon his death, devolved upon his legal heirs. It has been further contended that the respondents are attempting to change the nature and/or character of the suit property by cutting valuable trees and making illegal construction thereupon, with the aim of selling the same to a third party. The respondents have also threatened the appellant for dire consequences and accordingly, he was compelled to lodge a police complaint being GDE no. 458 dated 12.05.2025 but to no effect.

Finding no other alternative, the appellants, as plaintiffs, filed a suit, being Title Suit No. 1413 of 2025, for partition, declaration and permanent injunction before the Ld. Trial Court along an application under order 39 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. Court below refused. As such, the appellants have filed the instant Misc. Appeal along with an application under order 39 Rules 1 and 2 read with Section 151 of C.P.C. praying for an order of ad-interim injunction.

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

Perused the record and the materials annexed herewith.

Upon hearing the submissions made on behalf of the appellant/plaintiff and on careful perusal of the materials annexed herewith, it appears that the parties to the instant appeal are co-sharers in respect of the suit property.

It is settled position of law that injunction cannot be granted against co-sharers unless there is extreme urgency. In the instant application, supported by an affidavit, the appellant/plaintiff have alleged that the respondents/defendants are trying to alienate the suit property in favour of third parties. Though, it is trite law that all the co-sharers have equal rights over every inch of the property, but considering the prayer of the appellant/plaintiff, I am of the opinion that for preservation and protection of the suit property, injunction in the form of ad-interim order is required to be granted for a restricted period till hearing the respondents.

As such, I am of the opinion that appellant/plaintiff have a, *prima facie*, case and the balance of convenience and inconvenience are tilted in favour of the appellant/plaintiff. If, at this stage, an order of ad-interim injunction is not granted in favour of the appellant/plaintiff, then the appellant/plaintiff will suffer irreparable loss and injury and filing of the instant appeal would become infructuous. There may also arise multiplicity of proceedings if the prayer for an order of ad-interim injunction is refused at this stage.

Hence,

it is,

ORDERED

that the prayer for an order of ad-interim temporary injunction is allowed till **24.11.2025 (due to the intervention of the ensuing Puja Vacation).**

The appellant and the respondents are directed to maintain status quo in respect of the nature, character and possession of the suit property as on this day till **24.11.2025.**

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

Issue notices upon the respondents asking them to show cause within fifteen days from the date of receipt of notice as to why the instant Misc. Appeal shall not be allowed in favour of the appellant.

Fix 24.11.2025 for S/R and A/D.

Dictated & corrected by me

Sd/- C. Chattopadhyay

District Judge I/c

Sd/- C. Chattopadhyay

District Judge I/c