

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

Misc. Appeal No. 408 of 2025 (R-408)

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

Sri Supritam Bose Roy & Anr.

... Appellants

Vs.

Mr. Bijan Kumar Das alias Bijan Das and Ors.

... Respondents

Later Order No. 01, dated 09.12.2025

Appeal is admitted.

Ld. Advocate for the appellants prays for moving 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.

The case of the appellants, in a nutshell, is that appellant nos. 1 and 2 became the owner, title holder and possessor by way of inheritance in respect of plot being no. 1 at premises no. 87L, Salimpore Road, P.S. Garfa along with 12 feet wide common passage for free ingress and egress and the appellants are using and possessing the same. One Sishulata Dasgupta sold and conveyed the specific demarcated plot of land being plot no. 1 together with 12 feet wide common passage in favour of one Sipra Bose Roy, being the mother of the appellant no. 1. Said Sishulata Dasgupta also sold plot no. 2 along with 12 feet wide common passage in favour of one Pushpa Mukherjee, being the mother of appellant no. 2. The respondent no. 1 is in possession and occupation of plot no. 5 at KMC Premises No.

87H, Salimpore Road, P.S. Garfa.

The appellants have alleged that the respondent no. 1 along with his men and agents are grabbing land in and around the locality and the respondent no. 1 has no right, title and interest over the schedule 'A' and schedule 'B' properties, yet the respondent no. 1 along with men and agents are damaging the eastern and western side boundary wall of the schedule-mentioned properties and lastly on 29.11.2025, the respondent no. 1 along with his men and agent illegally entered into the schedule mentioned properties and partly destroyed the boundary walls. The appellants further contended that the matter was reported before the local P.S. and a G.D.E was also lodged.

Given the entire backdrop, the appellants were compelled to file a Suit for declaration, injunction and damages, being Title Suit No. 1956 of 2025, before the Ld. Trial Court along with an application for temporary injunction praying for an order of ad-interim injunction, which the Ld. Trial Court refused. 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 materials annexed herewith including the impugned order.

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 Sishulata Dasgupta sold two plots of land being schedule 'A' and schedule 'B' properties in favour of one Sipra Bose Roy and Pushpa Mukherjee, being mothers of the present appellants, along with 12 feet common passage for free ingress and egress. The appellants have alleged in the application for temporary injunction, supported by an affidavit, that the respondent no. 1, being in occupation of plot no. 5 of the map, is trying to encroach upon the common space and damaging the existing eastern and western side walls of schedule 'A' and 'B'. To fortify such contentions, the Ld. Advocate for the appellants have also relied upon photographs

so taken of the purported damage caused by the respondent no. 1. It is also seen from perusal of Annexure I-1 at Page No. 80 of the injunction application, being a letter of KMC addressed to the mothers of the present appellants, wherein the KMC took permission from the mothers of appellants for doing a work apropos restoration of water body for which the KMC authorities had to enter the work site through the boundary wall.

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. Urgency is also evident from the case record. As such, this Court is of the view that for a very restrictive period till hearing the respondents, a protective order needs to be given in favour of the appellants in order to protect the suit premises.

Hence,

it is,

ORDERED

that the prayer for an order of ad-interim injunction in favour of the appellants is allowed for a restricted period till **09.01.2026**.

The respondent nos. 1 and his men, agents and assigns are restrained from encroaching and further damaging the iron made grill gate on the existing eastern side and western side boundary walls of the schedule 'A' and schedule 'B' property and the respondent no. 1 and his men and agents are further restrained from changing the nature and character of the schedule 'A' and 'B' properties till **09.01.2026**.

The appellants are directed to comply with the provisions enumerated under

Order 39 Rule 3(a) and 3(b) of C.P.C.

Issue notice upon the respondents asking them to show cause within 15 (fifteen) days from receipt thereof as to why the instant appeal filed by the appellants shall not be allowed.

Requisites at once.

Fix **09.01.2026** for S/R and A/D.

Dictated & corrected by me,

Sd/- Smt. Monikuntala Roy

District Judge, I/c

Sd/- Smt. Monikuntala Roy

District Judge, I/c