

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

Misc. Appeal No. 412 of 2025 (R-412)

Present : Sri Dinanath Prasad (WB00639) District Judge-in-charge

Arambagh's Nursery

... Appellant

Vs.

Arambah Hatcheries Ltd. & Anr.

... Respondents

Later order No. 01, dated 12.12.2025

Appeal is admitted

At this stage, Ld. Advocate for the appellant prays for moving the application filed under Order XXXIX Rules 1 and 2 read with Section 151 of C.P.C for moving of the ad-interim prayer.

As per office report, no caveat has been filed.

As such, the application 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 is proprietorship firm established in 2002 to deal with seeds, plants, nursery and horticulture as part of its business cultivation. One Arambagh Hatcheries Ltd., the respondent no. 1 herein, is a breeding firm and hatchery and was set up in 1975 on 20 acres of land and was in operation till 2012. The respondent no. 1 has become non-operational as it failed to generate a revenue in 2012. There was a bilateral agreement between the appellant and the respondent no. 1 with respect to the schedule property and the appellant is in possession of the same. The appellant, over the years, developed the property and created infrastructure and has been carrying on its business over the schedule property

and has been paying rent in respect of the suit property. The appellant's further case is that the respondent no. 1 is in liquidation and in that respect one proceeding is pending before the National Company Law Tribunal, Kolkata Bench, Court-II. The official Liquidator, being the respondent no. 2, has issued a letter dated 04.08.2025 to the appellant to vacate the suit premises within stipulated period else steps would be taken to initiate proceedings before the NCLT or appropriate forum. The appellant's further case is that pursuant to Notice dated 04.08.2025, eviction proceedings have been initiated by the respondent no. 2. Thereafter, the appellant sent a letter dated 05.09.2025 in response to the Notice dated 04.08.2025. Thereafter, the respondent no. 2 again sent a Notice on 24.09.2025. The appellant submits that the Notices sent by the respondents are ex-facie illegal, bad and without any authority and/or statutory power.

Find no alternative, the appellant filed a suit, being Title Suit No. 1742 of 2025, for declaration, cancellation and permanent injunction 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.

To fortify his submissions, Ld. Advocate for the appellant has relied upon a decision of Hon'ble Supreme Court in **Embassy Properties Developments Ltd. Vs. State of Karnataka and Others** reported in **(2020) 12 Supreme Court Cases 308**.

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

Perused the record and the materials annexed herewith.

Upon perusal of the materials on record, it, *prima facie*, appears that an agreement was entered into between the appellant and the respondent no. 1 vide Agreements dated 07.06.2005 and 01.01.2012. Subsequently, the appellant has been running its business in the suit premises. In the meantime, the respondent no. 1 has gone into liquidation and the respondent no. 2, being the Liquidator, has sent a letter dated 04.08.2025 directing the appellant to vacate the suit premises. It also appears from the pleadings so made in the injunction application that eviction proceedings have been filed by the respondent no. 2 against the appellant.

Considering all aspects, this Court is of the view that the appellant/plaintiff has been able to make out a *prima facie* case in its favour and the balance of convenience and inconvenience is also in favour of the appellant. If, at this stage, an order of ad-interim injunction is not passed in favour of the appellant for preservation and protection of the suit property, then the appellant would suffer from irreparable loss and injury and filing of the instant appeal would become infructuous. There may also arise multiplicity of proceedings if an order of ad-interim injunction is refused at this stage.

Hence,

it is,

ORDERED

that the prayer for an ad-interim order of injunction is allowed in favour of the appellant for a restricted period till **13.01.2026**.

The respondents and their men and agents are, hereby, restrained from forcibly and illegally dispossessing the appellant from the schedule 'B' property without due process of law till **13.01.2026**.

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/defendants asking them to show

cause within fifteen (15) days from the date of receipt thereof as to why the instant Misc. Appeal shall not be allowed in favour of the appellant.

The order so passed is without prejudice to any order of any appropriate authority including the Hon'ble Court.

Fix **13.01.2026** for S/R and A/D.

Dictated & corrected by me,

Sd/- Sri Dinanath Prasad

District Judge, I/c

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