

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

Misc. Appeal No. 435 of 2025 (R-435)

Present : Sri Subhradip Mitra (WB01129) District Judge at Alipore

Gopal Chatterjee & Anr.

... Appellants

Vs.

Mukesh Sharma and Ors.

... Respondents

Order No. 02, dated 02.01.2026

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

Ld. Advocate for the appellants prays for moving of the application 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 under Order XXXIX Rules 1 and 2 read with Section 151 of C.P.C. is taken up for hearing.

Ld. Advocate for the appellants submits that the appellants, as plaintiffs, filed a Title Suit, being No. 1878 of 2025, for cancellation of Deed of Conveyance dated 31st December, 2018, and for declaration before the Ld. Trial Court along with an application for temporary injunction praying for an order of ad-interim injunction, but the Ld. Trial Court refused the prayer for an ad-interim relief. 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. Ld. Advocate further submits that if an order of ad-interim injunction is not passed in favour of the appellants for protection and preservation of the suit property, then

the very purpose of filing of Title Suit and the Misc. Appeal shall be rendered infructuous. Ld. Advocate also submits that there is urgency in the matter. Based on such submissions, Ld. Advocate for the appellants prays for an order of ad-interim injunction in their favour.

Heard the submissions made on behalf of the appellants.

Perused the record, impugned order and the materials on record.

Upon hearing the submissions made by the Ld. Advocate for the appellants and upon appraisal of the materials on record, it appears from paragraph 34 of the application for temporary injunction that the respondent no. 4, being a non-banking financial institution, has already taken over the possession of the suit property as the same was mortgaged before the respondent no. 4 by the respondent no. 1 and the appellants have already been dispossessed from the suit property by the respondent no. 4 on 15th September, 2025.

As such, taking into account the aforementioned observations, this Court is of its view that the appellants have not been able to make out a *prima facie* case in their favour and the balance of convenience and inconvenience does not, at this stage, tilt in favour of the appellants for grant of an ad-interim relief without hearing the other side. If, at this stage, an order of ad-interim injunction is passed in favour of the appellants without affording an opportunity to the respondents of being heard, it may create conflict with other legal proceedings and would give scope to multiplicity of proceedings especially when, admittedly, the appellants are not in possession of the suit property.

As such, before passing any order of protection in favour of the appellants, the respondents must be given an opportunity of being heard.

Hence,

it is,

ORDERED

that the prayer for an order of ad-interim injunction in favour of the appellants

is considered and refused.

Issue notices upon the respondents/defendants asking them to show cause within 15 (fifteen) days from receipt thereof as to why the instant appeal, along with the interlocutory application, filed by the appellants shall not be allowed.

Requisites at once.

To date i.e. **06.03.2026** for S/R and A/D.

The original documents so filed be returned to the appellants upon proper endorsement.

Dictated & corrected by me,

Sd/- Sri Subhradip Mitra

District Judge

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