

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

Misc. Appeal No. 436 of 2025 (R-436)

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

Alipore Club Formerly Alipore Society Club

... Appellant

Vs.

Abdul Hamid and Anr.

... Respondents

Later Order No. 01, dated 24.12.2025

Appeal is admitted.

At this stage, Ld. Advocate for the appellant 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.

The case of the appellant, in a nutshell, is that the appellant is a registered Club under the West Bengal Societies Registration Act, being registration no. S/1L/7057, situated at B/19/1//24/25 at 19, Alipore Road, P.S. Alipore, Kolkata-700027. The appellant/Club is associated with various social welfare and cultural works for the past fifty years. Since May, 2025, the respondent nos. 1 and 2, being Developers, have started to construct a multi-storied building by way of demolishing existing structures. The respondents are also encroaching upon the suit property and have started to stock building materials at the entrance of the Club. The respondents have also demolished a public toilet and when the members of the appellant/Club resisted such illegal act, the respondents along with their men and agents humiliated and verbally assaulted the members of the appellant/Club. On

20.08.2025, the appellant/Club, through its members, informed the matter to the K.M.C, Building Department, and also the local P.S. followed by D.C.P, but to no avail. The appellant/Club also lodged a Written Complaint before the P.S. at Alipore on 09.12.2025.

Given the entire backdrop, the appellant, as plaintiff, was compelled to file a Suit for declaration and permanent injunction, being Title Suit No. 2033 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 appellant has preferred the instant appeal along with an application for temporary injunction praying for an order of ad-interim injunction.

Heard the submissions made on behalf of the appellant.

Perused the record and the materials on record including plaint of Title Suit No. 2033 of 2025, Memorandum of Association, Certificate of Registration of Societies West Bengal Act, challan paid before the Rent Control, etc.

Upon hearing the submissions made by the Ld. Advocate for the appellant and upon appraisal of the materials on record, it, *prima facie*, appears that the appellant is a Club registered with the West Bengal Societies Registration Act situated at 19, Alipore Road, P.S. Alipore, Kolkata-700027. It has been averred in the application for temporary injunction, that has been supported by an affidavit, that the respondents, being Developers, are trying to encroach upon the suit property and has also stockpiled building materials at the entrance of the appellant/Club. Perusal of the written complaint dated 20.08.2025, *prima facie*, reveals that the appellant/Club, through its Ld. Advocate, informed about such alleged nuisance to the local P.S.

Therefore, regard being had to the above facts and circumstances, this Court is of the view that the appellant has been able to make out a *prima facie* case in its favour and the balance of convenience and inconvenience is also tilting in favour of the appellant. If, at this stage, an order of protection is not passed in favour of the appellant, then the appellant will suffer from irreparable loss and injury and the

very purpose of filing the suit and the appeal would be rendered infructuous. Refusal to pass an order of ad-interim injunction would prejudice the appellant more than grant of it to the respondents. There is every likelihood of multiplicity of proceedings if an ad-interim order of protection is not granted in favour of the appellant.

As such, this Court is of the view that for a very restrictive period till hearing the respondents, a protective order needs to be passed in favour of the appellant in order to protect and preserve the suit property.

Hence,

it is,

ORDERED

that the prayer for an order of ad-interim injunction in favour of the appellant is allowed for a restricted period till **27.01.2026**.

The respondents/defendants and their men, agents and representatives are, hereby, restrained from creating disturbance, annoyance and hindrance by way of encroachment in the suit property and also restrained from causing any hindrance, disturbance and/or annoyance as regards ingress and egress of the suit property or from any creating third party interests in respect of the suit property till **27.01.2026**.

The appellant is 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/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 appellant shall not be allowed.

Requisites at once.

Fix **27.01.2026** for S/R and A/D.

Dictated & corrected by me,

Sd/- Sri Subhradip Mitra

District Judge

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District Judge