

Misc Appeal no. 09 of 2026

Order No. 1 dated 17.02.2026

The instant Misc appeal was preferred against order dated 27.01.2026 passed by Civil Judge (Jr. Divn) 2nd Court, Sealdah in TS suit No. 28 of 2026 wherein the prayer for ad-interim injunction was refused.

From the noting of the dealing assistant it is found that there is no caveat in this case.

The instant Misc. Appeal is taken up on the point of admission hearing. Heard the Ld. Advocate for the appellant/plaintiff, perused the impugned order and memo of appeal and considered. The appeal is filed within time. There is sufficient prima facie grounds to admit the instant appeal. Accordingly, the appeal is admitted.

The appellant/plaintiff is directed to file requisites with process fees for service of notice upon the respondents at once.

Office is directed to issue notice on receipt of requisites.

Ld. Advocate for the appellant/plaintiff moves the petition under order 39, rule 1 and 2 of CPC submitting that if the present respondents be not restrained, the appellant will suffer irreparable loss.

I have considered the contents of the plaint which shows that the present appellant had filed the suit for declaration that the said appellant was the absolute owner of the suit property and was entitled to peaceful and uninterrupted enjoyment of the said property and the declaration that the principal respondent have got no right title and interest over the suit property.

In support of the ownership of the appellant in the suit property the necessary deed of conveyance was placed.

The agreement of leave and licence in between the present appellant and the proforma respondent no. h and i were also placed.

I have considered the said documents and from the said documents it prima facie appears that the ownership of the respondent no. 1 over the suit property is not at all disputed.

It is also not a disputed fact that the respondent no. h and i were the licencees under the present appellant.

The allegation of the appellant is that the respondent being his own brothers and sisters and the wives of the brothers of the appellant

were trying to dispossess the appellant and to disturb the continuation of the agreement of licence.

In support of their contention the decision of the Hon'ble Apex Court reported in AIR 2008 SC 2033 is placed.

I have gone through the ratio of the decision of the Hon'ble Apex Court.

Considering all aspects, I think that both the appellant and respondent no. a to g be directed to maintain status quo in respect of the suit property as it stands on this day till next date of hearing.

The appellant is directed to take proper step in this regard.

Fix **05.03.2026** for SR/ AD and appearance and hearing.

The original documents as filed, be returned.

D/C by me

(Anirban Das)/WB00691
ADJ- 1st Court, Sealdah

(Anirban Das) WB-691,
Addl. District Judge,
1 Court, Sealdah