

High Court Form No. (J) 2

Heading Of Judgment In An Original Suit/Case

District :24 Parganas (South)

In the Court Of :Additional District Judge, Fast Track,
II Court, Sealdah,Present :Parna Bhattacharjee
J.O. Code :WB01015.Friday, 13th day of March, 2026.**Misc. Appeal No.06/2025.****C. I. S. No.25 of 2025.****CNR No.WBSP07 001066 2025.**

Smt. Sashi DeoraAppellant.

-Versus-

Shri Shiva Kumar DeoraRespondent.

This appeal coming on for final hearing on 06.03.2026
..... in the presence ofSri Sagnik Kumar Bhattacharyya
..... Advocate for the Appellant

-and having stood for consideration to this day, the Court delivered the following judgment.

This Miscellaneous appeal was preferred by the Petitioner/ Appellant being aggrieved and dissatisfied with the Order dated 18.03.2025, passed in Title Suit No.117 of 2025 by Ld. Civil Judge (Junior Division), 2nd Court, Sealdah on the following grounds:

Grounds for Appeal:-

1. Ld. Trial Court has not applied judicial mind at the time of passing the impugned order 18.03.2025.

2. That the Ld. Trial Court committed material irregularity while passing the said order.

3. Ld. Trial Court ought to have considered the documents filed by the plaintiff/appellant.

4. That the impugned order passed by Ld. Trial Court is bad in law and liable to be set aside.

Brief Facts:-

Before delving regarding the merits of this appeal, it is pertinent to summaries the factual backdrop of this Misc. Appeal in a succinct form. The Plaintiff/Appellant has stated that the appellant and the respondent are lawfully married couple, their marriage was solemnized on 20.02.1994 according to Hindu Rites & Customs including Saptapadi. In the said marriage, both were blessed with one son and a daughter who are now major. It is the categoric contention of the appellant that in the year 2023, the appellant purchased one flat, as morefully described in the schedule of the instant petition and situated at second floor of Zarina Block, Swarnamani Complex at premises No.163B, Manicktala Main Road, P.S. Manicktala, Kol-54 together with Servant Quarter, apartment being No.2ZB. But in turn of events, the appellant came to know about extra marital relationship of her husband/defendant/respondent and thereafter she initiated Matrimonial Suit No.63/24, pending before this Court. The main allegation of the plaintiff/ appellant is that the defendant/respondent and his main and agents are trying to create a third party interest in the suit property by transferring the said flat and threatened the plaintiff with dire consequences. Hence, this instant appeal.

Heard Ld. Advocate on behalf of the appellant at length.

It is noteworthy to mention at the outset that in **Prem Chand Vs. Manak Chand AIR 1997 Raj 198**, it was held by Hon'ble Court that injunction being in the nature of preventive relief is generally granted taking note of the equity.

In **P. Govindaswamy Vs. S. Narayanan (1987) Supp. SCC 58**, it was held by Hon'ble Apex Court that at the time of hearing of the petition for temporary injunction the Court can express only its tentative view.....It will not be implied as being a finding on the merits of the matter.....

In the words of White CJ : The granting of a temporary injunction under the powers conferred is a matter of discretion.

In **Dalpat Kumar Vs. Prahlad Singh AIR 1993 SC 276**, it was observed by Hon'ble Apex Court that the phrases 'prima facie case' 'balance of convenience' and 'irreparable loss' are words of width and elasticity to meet myriad situations presented by man's ingenuity in given facts and circumstances.....

In **Gadadhar Mishra Vs. Biraja Devi AIR 1999 Ori 226**, it was observed by Hon'ble Court that for establishing a prima facie case it is not necessary for the party to prove his case to the hilt and if a fair question is raised for determination, it should be taken that a prima facie case is established.

The principles of balance of convenience implies the evenly balancing of scales.

In **Sanjeev Kumar and Co. Vs. Bishnu Prasad, AIR 1999 Ori 90**, it was held by Hon'ble Court that the term 'irreparable injury' means injury which is substantial and could never be adequately remedied or atoned for by damages, injury which cannot possibly be repaired. It implies a substantial and continuous injury for which there does not exist and standard for ascertaining the actual damage likely to be caused.....injury must be

material one, that cannot be adequately remedied or compensated by way of damages.

At the stage of deciding the application for temporary injunction, the Court is not required to go into the merits of the case in detail. What the Court has to examine is:-

- i) the plaintiff has a prima facie case to go for trial;
- ii) the protection is necessary from the species of injury known as irreparable before his legal rights can be established and
- iii) that the mischief of inconvenience likely to arise from withholding injunction will be greater than what is likely to arise from granting it.

The Court may grant the relief even at a belated stage.

Coming to the case in hand from the perusal of the documents on record namely, from the purchase deed I find that the suit schedule property was purchased in the joint name of both the appellant/plaintiff and the defendant/respondent. Also from the perusal of letter of complaint dated 03.03.25, it appears that the plaintiff is apprehensive about the overt act of the defendant in respect of the suit schedule property. So, for preservation and protection of the suit schedule property is the need of the hour and an order in the nature of status quo will suffice the purpose. In view of above observation and keeping in view of the spirit of provisions of Order 39 of CP Code,

Hence, it is,

Ordered

that the instant Misc. Appeal be and the same is allowed on its merits.

The order dated 18.03.2025 as passed in T.S No.117/2025 by Ld. Civil Judge (Junior Division), 2nd Court, Sealdah is hereby set aside.

Both parties are directed to maintain the present nature, character and possession of the suit property as it stands today till the disposal of original Title Suit No.117 of 2025.

There is no order as to costs.

Memorandum of Appeal is properly stamped.

Court Fees paid is found correct.

Let the TCR be sent to the Court of Ld. Civil Judge (Junior Division), 2nd Court, Sealdah at once.

Dictated and Corrected by me

Additional District Judge,
Fast Track, 2nd Court,
Sealdah.

Additional District Judge
Fast Track, 2nd Court,
Sealdah.