

HIGH COURT FORM NO. (J)

FORM OF HEADING OF DEPOSITION

**IN THE COURT OF CIVIL JUDGE [JUNIOR DIVISION], ADDITIONAL
COURT, Garhbeta, Paschim Medinipur**

T.S-36/14

Present : Lipika Das

*Deposition of witness No. P.W- 03 ,taken on oath/solemn affirmation on the 06
th th day of January 2025. My name is Sri Gopal Chandra Ghosh , S/O of Late
Nageswar. Ghosh , my aged about 71 years., I reside Vill- Kasthagora , P.O.-
Panikotore ,Police Station- Garhbeta. , District - Paschim Medinipur , I am a
cultivator.*

Today I filed my written affidavit in chief before this Court in support of the plaintiff. It has been written as per my instruction and after having full understanding of the contents of the affidavit in chief I put my signature in its every pages. It also bears the signature of my Advocate.

CROSS BY THE DEFENDANTS

1. I can not say all the names of the parties of this suit correctly.
2. In the southern side of the suit property there is dag no 1172, and in the northern side of the suit property there is dag no 1145 but I can say the dag numbers existed in eastern and western side of the suit property.
3. Dag no 1145 consist of total 18 decimal of land.
4. I also can not say the total area of land in the eastern and western side of the suit property.
5. Sudhir , Subal and Lakshmikanta are still in possession of the suit property and since my age of 10 -12 years I used to see that they are continuously in possession of the suit property.
6. Total area of land in dag no 1172 is 33 decimal of land.
7. I have 10 decimal of land in dag no 1172 and I got this land by patta from the government but I can not say in which year I have got the said patta.
8. I have patta in my name but today I did not bring the patta with me.
9. In 1172 dag my brother Biswanath Ghosh has 10 decimal , my uncle namely Ranakrishna Ghosg has 10 decimal of land and rest 3 decimal in dag no 1172 dag is vested land.
10. Not a fact that in the rest 3 decimal of land in dag no 1172 Bivison Ghosg's daughter has her residential unit.
11. It is fact that there was a civil suit in between me and Bivison Ghosg before Medinipur Court.
12. It is fact that defendant Mohan Ghosg has depose against us in the aforesaid suit.
13. I can not say the individual possession of land by Sudhir , Subal and Lakshmikanta in the suit property.

- 14.I do not know whether the legal heirs of Lakshmikanta are possessing 28 decimal of land in the suit property.
15. I can not say the chauhaddi of dag no 1145.
16. Not a fact that I do not have my own property adjacent to the suit property.
17. Not a fact that I depose falsely as I have enmity with the defendants.

(closed and discharged)

Civil Judge (Jr.Div)
Addl. Court, Civil Judge (Jr. Div)
Paschim Medinipur.

Addl. Court, Garhbeta
Garhbeta Paschim Medinipur

Further cross examination of P.W- 1 (Pratick Sardar) by) on 07/01/2025

1. Original plaint has been shown to the witness. The signature or the names of Kanchan Sardar, Dilleswar Layak, Rita Sardar, Suchitra and Padma Sardar Layak has been written by one person and this has been done in every pages of the plaint.
2. I have never seen Sripati Layak s/o late Hari Layak.
3. I have also never seen Lakshmi Patra w/o Mihan Patra.
4. Asish Patra and Jagabandhu Patru are the defendants of this suit.
5. Not a fact that defendant no 1 and 2 have purchased 5.5 decimal of land in suit plot by registered sale deed dated 21.05.1966 being no 3764 before Garhbeta S.R. office .
6. Not a fact Sankar Layak and Banshi Layak sold out 2 decimal of property in suit plot in favour of Ashit Patra and Jagabandhu Patru by a registered sale deed being no 2960 for the year 1966.
7. I have never seen the sale deed no 2960 for the year 1966.
8. It is fact that the suit property has been recorded in separate L.R. khatian in the names of defendants individually.
9. I have filed this suit in dag no 42, 41, 40, 50, 51, 32 and the total suit area of these dag numbers is 12 acres it is approximately 30- 35 bighas of land.
10. Not a fact that suit land never be a cultivated land .
11. Not a fact that the defendants are planting eucalyptus tree on the suit land and they have been made cutting of the said trees within a gap of every 6 years.
12. I can say the chauhaddi of every dag no of the suit property separately.
13. In the northern side of dag no 40 property of 42 dag . In the southern side of the said land of 50 dag is existed, in the eastern side property of dag no 40 is existed and in the western side the property of plot no 51 existed and all the property are situated in the Rajhati mouza.
14. I can not say the dag number situated at the adjutant north of 42 dag, in the southern side there is land of Jagabandhu and Asish Patra's property dag no 50. Adjutant eastern of dag no 42 dag there are houses and land of Biswanath Niogi and Sanbhu Niogi . And in the adjutant west of dag no 42 there is land of Asish Patra and Debendra Ghosh .
15. Not a fact that the plaintiffs had or have never any right, title, interest and possession over the suit property.
16. Not a fact that all the defendant s were and are possessing the suit property on the basis of their 16 annas right, title , interest and possession .
17. Not a fact that I depose falsely

(closed)

Civil Judge (Jr.Div) Addl. Court ,
Garhbeta, Paschim Medinipur

Order No. 60 Dated 09/01/2025

Today is fixed for argument.
Parties files hazira through ld. Advocate.
Ld Advocate Sri Shyamal Kumar Mahapatra is included behalf of Plaintiff
by fresh vokalotnama. Argument heard in full defendant side today. Ld. Advocate
for the plaintiff orally submitted to court praying for time . Prayer is allowed.

Fix : 15/01/2025 for further argument.

Civil Judge Jr.(Div) Addl.Court
Garhbeta, Paschim Medinipur
Judicial Code WB0 1479

Title Suit –2/25 (CIS - 2/25)

CNR – WBWM11 – 000005 - 2025

LATER

“No caveat” is pending.

Plaintiff has filed the instant suit against the defendants seeking partition, declaration and permanent injunction.

The plaintiff filed an injunction petition along with the plaint against the defendant nos. 1 to 4 in respect of the suit property mentioned in the schedule of the petition as well as the plaint.

The facts of the case in nutshell, in Dist – Paschim Medinipur , P.S. Garhbeta, bagri – Pargona J.L. No 754, mouza - Baradiha, L.R khatian 274/2 described as Ka schedule and Ka1 is the part and parcel of Ka schedule , belongs to the plaintiff's property , is the suit property . According to the plaintiff, the ka 1 schedule property including other properties in suit mouza were vested land property of Government of West Bengal and earlier the family members of Mahur Mondal had resided adjacent to the suit dag no and after that family members of Mahur Mondal forcefully entered in the property of the suit dags and has started living over there and after death of said Mahur Mondal his two sons namely Saidur Mondal @ Saidul Mondal plaintiff no 1 and Lutfar Mondal were and are in possession of the aforesaid property and the concerned Land Officer issued patta of 12 decimal in Dag no 1223 and 06 decimal in dag no 1225 in their names on the basis of their application and possession over the suit property in R.S. Case no 7/97-98 and S.L. No. 25 and the said patta property has been finally published in L.R. khatian 274/2 in the names of the plaintiffs. Plaintiffs again stated that in R.S. Case no 7/97-98 patta has been issued in the names of Lutfar Mondal and his wife Hareswa Mondal of 06 decimal in dag no 1225 and few portion of land in dag no 1223 and after death of Lutfar Mondal his wife defendant no 1 and three daughters defendant no 2 to 4 along with the pro – forma defendant no 5 and 6 were and are in possession of the property. As per the plaintiff the total area of the suit dag no 1225 is 14 decimal and plaintiffs got patta of 06 decimal and Lutfar Mondal got patta of 06 decimal and both of them are possessing the property as per their shares as plaintiffs are in possession of eastern side of the land and Lutfar was and is in possession of western side of the property. And rest 02 decimal of land is lying as vacant land and no patta has been issued in respect of this rest 02 decimal of land to anybody as it is lying as vested under Government of West Bengal. With the intention to grab the 06 decimal of property in 1225 dag the defendants are illegally trying to raise building construction in the eastern portion of the plaintiffs' property in 06 decimal of land and one unpleasant incident has occurred between plaintiff and defendants in spite of the plaintiffs' resistance that defendants no 05.01.2025 forcefully raised few plinth in eastern portion of plaintiffs' 06 decimal in dag no 1225 and on that day the plaintiff no 1 requested the defendants no 1 and 2 for amicable partition of the suit property but the defendants flatly refused to do so and also gave threat to grab the plaintiffs portion of the property forcefully and raised construction over there. On the next day the plaintiff no 1 informed and complaint the matter before the local P.S. and the local Panchayat and both of them asked him to come after few days and they did not received the application of the plaintiffs and after that when the plaintiffs went to the P.S. and Panchayat , they simply denied the complaint of the plaintiffs and after that the plaintiff on 10.10.2025 sent the complaint through

postal department to the P.S. and the Panchayat but till date both the authorities did not take any steps and the plaintiffs are compelled to institute this present suit.

The cause of action of the suit arose on 05.01.2025 at the 06 decimal of land in dag no 1225 suit property within the jurisdiction of this Court when the defendants no 1 and 2 try to grab the northern portion of plaintiffs Ka schedule property and by ignoring the plaintiffs' protest the defendants were trying to raise forceful construction over there and also gave threat of dispossession of the plaintiff from their portion.

The plaintiff has filed some documents i.e., original patta in case R.S. case no 7/97-98 S.L. No 25 stands in the names of plaintiff no 1 and 2 , original L.R. ROR of khatian no 274/2 of Mouza – Baradiha, J.L. no 754 stands in the names of plaintiff no 1 and 2 , original written complaint addressing to Garhbeta P.S. and Raskundu Gram Panchayat.

Perused the materials available on record & considered .

Perusing the material available in record , I have found the documents supplied by the plaintiffs are enough to establish a prima facie case in favour of the plaintiffs as the plaintiffs are in possession of 06 decimal of dag no 1225 and the defendants are also in possession of 06 decimal of property and the balance of convenience and inconvenience of the fact lies in favour of plaintiffs. If the defendants will successful to grab the suit property by dispossessing the plaintiff from the suit property then only plaintiffs will suffer irreparable loss and injury for the time being . Accordingly, I have no doubt to allow this prayer of ad interim injunction order in **status quo** form .

Hence, it is

ORDERED

that, the ad interim order is allowed in status quo form and both the parties are here by directed to maintain status quo of the suit property and all the parties are strictly restricted to not to change the nature and character of the suit property in any manner.

The order of **status quo** is subject to extension from time to time, if prayed for and allowed or unless changed or varied.

Plaintiffs are directed to comply with this order strictly according to law.

To date for filing objection by the defendants if any.

D/c by me.

Civil Judge Jr.Divn
Garhbeta Additional Court

Title Suit –4/25 (CIS - 4/25)
CNR – WBWM11 – 000008 - 2025

The record is put up today on the basis of put up petition filed by the plaintiff.

“No caveat” is pending.

Plaintiff has filed the instant suit against the defendants seeking declaration and permanent injunction.

The plaintiff filed an injunction petition under O 39 R 1 & 2 and under section 151 of CPC. along with the plaint against the defendant nos. 1 to 5 in respect of the suit property mentioned in the schedule of the petition as well as the plaint.

The facts of the case in nutshell, in Dist – Paschim Medinipur , P.S. Garhbeta, bagri Pargona J.L. No 529, mouza - Ausabandi, 68 and 2/3 decimal of land out of 1 acre 03 decimal in R.S khatian 118, L.R. khatian 471,472,483,612,613,614,615,616 , 48 decimal out of 95 decimal in the eastern portion of dag no 298,37 decimal out of 73 decimal in the eastern portion of dag no 259, 18 decimal out of 37 decimal in the eastern portion of dag no 260,in the suit property and in the north of the suit property there is property of Garar Mandi, in the south property of Pari Khatun , in the east of the suit property there is a road , in the west side there is property of Ramesha Khatoon . According to the plaintiffs total 2 acre 05 decimal of land in suit mouza including the suit property was belonged to one Ankesh Kumar Chakrabarty and the sons of one Jamidar Dalal namely Murtuja Hossain @ Murtuja Hossain Dalal and Mainuddin Hossain @ Mainuddin Dalal took settlement of the suit property from Ankesh Kumar Chakrabarty at yearly rent of Rs 5/- and their names had been finally published in R.S.khatian no 118 in RS. ROR and in the year both the aforesaid brothers made an amicable partition of the total 2 acre 05 decimal in between themselves and demarcated their shares and according to that amicable partition Mainuddin Hossain @ Mainuddin Dalal got 1 acre 2 and ½ decimal of land half of 2 acre 05 decimal in the eastern portion and Murtuja Hossain @ Murtuja Hossain Dalal got 1 acre 2 and ½ decimal of land half of 2 acre 05 decimal in the western portion and since then they had been in possession of their demarcated respective shares.Mainuddin Dalal had sold out his 1 acre 2 and ½ decimal of land in the eastern side to one Arshad Ali Mondal on 23.04.1968 by a registered deed of sale being no 2861 and since then Arshad Ali Mondal was in possession of the said 1 acre 2 and ½ decimal of land in the eastern side . Murtuja Hossain Dalal sold 36 decimal of land out of 73 decimal from dag no 259 from his total property in favour of one minor Majid Mallick represented by his father Alfajuddin Mallick in the year 1975 by aregistered deed of sale .Murtuja Hossain Dalal had also sold 66 decimal of land of suit dag 258 in favour of Alfajuddin Mallick and sad Alfajuddin Mallick had 36 decimal in 259 dag in the name of his minor son and had 66 decimal in dag no 258 and 259 in his own name and also was in possession of the said properties and hence Alfajuddin Mallick had total 1 acre 2 and ½ decimal which was previously belonged to Murtuja Hossain Dalal . Arshad Ali Mondal had sold 51 and ¼ decimal of land out of 1 acre 2 ½ decimal of land in favour of one Maniriddin Khan on 29.03.1978 and rest half portion sold to one Safiuddin Khan on 29.03.1978 and since then both of them were in possession of their purchased properties and they got property in eastern portion of dag nos 258,259and 260. After that Maniriddin Khan,Safiuddin Khan,Mainur Ali Khan, Mohammad Ali Khan and minor Rahaman Ali represented by his natural guardian father Noor Md Khan jointly sold total 1 acre 03 decimal from dag nos 258,259 and 260 in favour of Arshed Ali Mondal on 13.05.1985 and since then Arshed Ali Mondal was in possession of total 1 acre 03 decimal of property . Then the said Arshed Ali Mondal had sold 68 and 2/3 decimal of land alongwith Bengali boundary in favour of these plaintiffs on 02.05.1992 with a registered deed of sale being no

2025 and since the time of purchase the plaintiffs are in possession of the said 68 and 2/3 decimal of land . The said Arshed Ali Mondal sold the eastern portion of his property in favour of the plaintiffs and the rest portion 34 and 1/3 decimal of property

had sold to one Pari Khatun with Bengali boundary on 02.05.1992 before the Garhbeta , Sub

Registrar and since then Pari Khatoo is in possession of the said property. These plaintiffs have turned the suit property into a flat land by leveling it as previously it was a low land and they are possessing the suit land by cultivating paddy, potato ,sesame seeds etc. and previously there was no road in the eastern side of the suit land and nothing mentioned in the chauhaddi as road in the deed of the plaintiffs by which plaintiffs have purchased the suit but after that one morum road has been created at the eastern side of the suit property from Raida village to Gilabono village and later the road has been constructed as pitch road and it raise the market value of the suit property. Plaintiff no 1 s name has been recorded in L.R. khatian 471 and plaintiff no 2's name has been recorded in L.R. khatian 472 and pro forma defendant no 6's name has been recorded in L.R. Khatian no 483 and finally published. Plaintiff no 1 have made conversion of few portion of the suit property as Bastu land and after investigation by the concerned department 02 decimal of land in dag no 259 and 04 decimal in 260 dag property has been converted into Bastu land from Dhani Soyem . Similarly plaintiff no 2 has also made application for conversion and after duly investigation 06 decimal in dag no 259 has been converted and both the plaintiff have got the valid documents in respect of the conversion fro the B.L&L.R.O. The plaintiffs have raised their residential units with brick and cement and raised this up to the roof and the pro- forma defendant no 6 has also raised her residential unit upon the property which she had purchased and also running her tea stall in the said property . Plaintiffs are continuously paying their rent and taxes before the concerned department time to time. The defendants or their predecessor had or have no right, title , interest and possession over the suit property The defendants have no blood relation with Alfajuddin Mallick and there is no such title deed in the name of Asruf Khan if the defendants has any title deed in respect of the suit property then that will be a false deed. 1/8 share has been recorded in suit dag in khatian no 613,615 and 618 in the name of each defendant no 1,2 and 3 and 1/16 share has been recorded in khatian no 612 and 616 in the name of defendant no 4 and 5 and they are in possession of total 1 acre 2 and ½ decimal of land . As presently the suit property turned into a valuable property , the defendants gave threat to the plaintiffs on 26.12.2024 or 10th Poush, 1431 B.S. as they will dispossess the plaintiffs from the suit property and they will give boundary to the suit property with fence forcefully and they will raised new construction over the suit property and they have collected cemented pillars for the boundary of the suit property and the plaintiffs are compelled to file this suit.

The cause of action of the suit arose on 26.12.2024 or 10th Poush, 1431 B.S at the suit property within the jurisdiction of this Court when the defendants gave threat to the plaintiff that they will take the illegal and forceful possession of the sauit property and raised construction over there .

The plaintiff has filed some documents i.e., original R.S parcha of dag no 258, 259 and 260, certified copy of the sale deed for the year 23.08.1968, certified copy of sale deed dated 17.01.1975, certified copy of sale deed dated 17.01.1975, two certified copies of sale deeds dated 29.03.1978, certified copy of sale deed dated 13.05.1985, two certified copies of sale deeds dated 04.05.1992, Xerox copy of , L.R Ad LRO of conversion , information slip of Ausabandi mouza.

Perused the materials available on record & considered .

Perusing the material available in record , I have found the documents supplied by the plaintiffs are enough to establish a prima facie case in favour of the plaintiffs as apparently the documents shows that the plaintiffs are in possession of the suit property 68 and 2/3 decimal of land and the balance of convenience and inconvenience of the fact lies in favour of plaintiffs. If the defendants will successful to grab the suit property by dispossessing the plaintiff from the suit property with the boundaries then only plaintiffs will suffer irreparable loss and injury for the time being. Accordingly, I have no doubt to allow this prayer of injunction in ad interim form .

Hence, it is

ORDERED

that, the order of injunction is allowed in ad interim form and the defendants are here by restrained from creating any kind of disturbance in the peacefull possession of the plaintiffs in the suit property.

The order of **ad interim** is subject to extension from time to time, if prayed for and allowed or unless changed or varied.

Plaintiffs are directed to comply with this order strictly according to law.

To date for filing objection by the defendants if any.

T/c by me.

Court

Civil Judge Jr.Divn

Garhbeta Additional

J.Misc (P.emp) - 08/22(CIS - 04/18)
(CNR - WBWM11- 000041 - 2018)

Order No . 63, Dated 11.02.2025

Today is fixed for passing order in respect of petition under section 151 of CPC dated 19.09.2024, filed by the O.P.

Both parties file representative hazira through their Advocates.

Ld. Advocate of the O.P. submitted before this Court that the petitioners have institute this Pre emption case in respect of property of deed no 796 dated 31.01.2018 which was registered before the ADSR , Garhbeta and at the time of filing of this case the petitioner has filed the certified copy of the aforesaid deed along with the petition and also deposited part deposit of the consideration money that is the 10 % of the actual consideration money and if at the time of the case the petitioner would not file the certified copy then the petition would have been automatically return and in the said alleged deed the set forth value and the market value of the pre-empted property has been mentioned as Rs. 99,501 /- and petitioners have mentioned in their petition the inflated price of the pre- emptied property is Rs. 99,000 /- instead of Rs. 90,501/- but they deposited Rs. 50,000/- as consideration money along with 10% compensation that is Rs. 5000/- as total Rs. 55,000/- they have deposited and this Rs. 55,000/- is a part deposition and it is totally illegal . This O.P. on 11.06.2024 filed one application by mentioning the part deposition fact of the petitioner but the said petition was rejected by this Court .The submission of the O.P. continues that non of the witness of the petitioners has failed to prove the fact that the actual consideration money of the pre- emptied property is Rs. 50,000/- irrespective of Rs. 90,501/- and this O.P. has filed the original deed before this Court and as per the latest Supreme Court judgment part deposit of consideration money in pre- emption case is liable to be rejected. This O.P. has prayed before this Court to reconsider the order dated 22.08.2024 and the earlier petition dated 11.06.2024 of the O.P. as the present pre- emption suit is not maintainable and liable to be rejected.

Ld. Advocate of the petitioner has raised strong objection and submitted before this Court that the matter has been already determined by this Court and after such determination this Court has passed its order and the O.P. did not preferred any revision against such order dated 11.06.2024 before the higher forum and the latest Supreme Court judgment in this respect has no retrospective effect and the principle of Barasat Eye Hospital judgment passed by Ho'nble Supreme Court has no implication in this present case and the present Court has rightly passed the order dated 11.06.2024. He prayed for the rejection of the petition of the O.P.

Heard & considered.

Perusing the materials available in the case record this Court found that at the time of passing of order dated 22.08.2024 the petitioner have not filed the alleged deed being no 796 dated 31.01.2018 by which the O.P. has purchased some portion of the suit plot and by such transfer the petitioners accrued the right of Pre-emption right of the suit property but the O.P. also did not filed the said deed before this Court and for that reason the Court did not get the scope to compare what is the actual consideration price of the Pre-empted property. At the time of hearing the O.P. submitted before this Court that petitioner has already filed the said alleged deed at the time of institution of this case . However, now this Court has found the alleged deed being no 796 dated 31.01.2018 in the record and after scrutinizing and the comparing the alleged deed this Court has found that in the original deed being no 796 dated 31.01.2018 , the price of the Pre-empted property has been written as Rs. 99,501 /- and the government market valuation of the Pre-empted property is also Rs. 99,501/- and at the filing of this Pre-emption case the petitioner has mentioned in their petition that the actual consideration price of the Pre-empted property is Rs. 50,000/- but the O.P. intentionally has conspired and mentioned the inflated price of the Pre-empted property as Rs. 99,501/-and for this reason the petitioner has deposited the actual consideration amount i.e, Rs. 50,000/- and filed 10% of the actual consideration i.e, Rs 5000/- as total Rs. 55,000/- before this Court. Coming to the application of the principle of landmark judgment of **Barasat Eye Hospital Vs. Kaustabh Mondal ,AIR ONLINE 2019 SC 2075,(2019) 14 SCALE 90, AIRONLINE SC2317** case , the Apex Court has clearly mentioned in its judgment that , "the per-requisite to even endeavor to exercise this weak right is the deposit of the amount of sale consideration and the 10% levy on that consideration as otherwise , section 8(1) of the said Act will

not be triggered off, apart from making even the beginning of section 9(1) of the WBLR Act." In the same judgment the apex Court has also guided with the principle for deposition of the balance consideration amount in a Pre-emption case and the Hon'ble Court

holds that, "once the time period to exercise a right is sacrosanct, then the deposit of the full amount within the time is also sacrosanct. The two go hand-in-hand. It is not a case where an application has been filed within time and the amount is deficit but the balance amount has been deposited within the time meant for the exercise of the right, the right under the would be triggered off on deposit of the amount which, in turn, would be within the time stipulated for triggering the right. That not having happened, we are of the view that there can not be any extension of time granted to the respondent now to exercise such a right.'

It is very clear from the alleged deed being no 796 dated 31.01.2018, itself that the actual consideration price of the Pre-empted property is Rs. 99,501/- and the government valuation is also same but the petitioners have intentionally mentioned the lower amount that is Rs. 50,000/- as the price amount of the Pre-empted property and that is a short deposit. Apart from this the statute is very clear about the deposition that is, „Section 8(1) of WBLR Act"....., **apply to the Munsif having territorial jurisdiction, for transfer of the said portion or share of the plot of land to him, subject to the limit mentioned in section 14M on deposit of the consideration money together with further sum of ten per cent of that amount.**" As the apex Court has held in **Barasat Eye Hospital Vs. Kaustabh Mondal, AIR ONLINE 2019 SC 2075, (2019) 14 SCALE 90, AIRON-LINE SC2317**, that to exercise the right of Pre-emption has to claim such right along with the deposition of such actual consideration money along with 10% levy, it goes hand-in-hand, as such it is a pre condition to file a Pre-emption case, and the statute itself did not provide any kind of extension of such deposition. However, in this present case the petitioners have intentionally stated a lower valuation of the Pre-empted property and as such the deposition of the consideration amount is short and the petitioners would not going to allow for deposition of the deficit amount by this Court. Thus the present Pre-emption petition is not at all maintainable. Hence, it is

ORDERED

That the order dated 22.08.2024, passed by this Court is hereby **recalled**.

The petition dated 11.06.2024 and the petition dated 19.09.2024 under section 151 filed by the O.P. be and both the petitions are hereby **allowed on contest**.

Hence, the present Pre-emption case no 8/22 (CIS - 4/18) be and the same is dismissed on maintainable ground.

The deposited consideration amount is to be returned to the petitioner from the department of the Nazarat.

BC is hereby directed to make note in the concerned Register.

T/C by me
Court

Civil Judge Jr. Div. Additional

Garhbeta.

T.S.26/2022(CIS -166/17)
(CNR-WBWM11 -000194- 2017)

Order No 76, Dated 12.02.2025

Today is fixed for passing order in respect of petition under O.6 R. 17 of CPC, Dated 12.09.2024 filed by the plaintiff.

Both parties files representative haziras through their Ld. Advocates.

The defendants filed written objection against the aforesaid petition .

The plaintiff submitted before this Court that for conclusive determination of the present suit the facts stated in the proposed amendment is necessary otherwise the plaintiff will suffer.

Ld. Advocate of the defendants raised strong objection against this amendment. According to the defendants the plaintiff has no right to file this amendment petition as it is not at all maintainable and the present petition has been filed in belated stage of the suit. As per the defendants the proposed amendment will change the nature and character of the suit and it will raise new cause of action and these defendants will be highly prejudiced by this proposed amendment of the plaint.

Heard & considered.

On careful perusal of the materials available in the case record this court found that this is a suit for partition and permanent injunction and in para 2 of the plaint the plaintiff described the property upon which the plaintiff seeks partition with the defendants. By this proposed amendment plaintiff intent to add some deeds in details by which plaintiff and the defendants acquired the suit property and plaintiff has already gave a hint about those deeds in his plaint . In my opinion the proposed amendment will not change the nature and character of the present suit in any manner rather it will help the Court for its final determination. Hence , it is

ORDERED

That the petition under O.6 R. 17 of CPC, Dated 12.09.2024 filed by the plaintiff be and the same is hereby **allowed on contest with amount of cost of Rs. 500/-**.

The plaintiff is hereby directed to make payment of cost of Rs. 500/- to the defendants .

Next date **26.02.2025** for payment of cost and filing amended plaint by the plaintiff.

T/C by me

Civil Judge Jr. Div. Additional
Court , Garhbeta.

HIGH COURT FORM NO. (J)

FORM OF HEADING OF DEPOSITION

IN THE COURT OF CIVIL JUDGE [JUNIOR DIVISION], ADDITIONAL
COURT, Garhbeta, Paschim Medinipur

T.S- 39/14

Present : Lipika Das

Deposition of witness No. P.W- 01 ,taken on oath/solemn affirmation on the 13 rd day of February 2025. My name is Sri Nabakuma Dandapath S/O of late Prashanta Bhattacharya, my aged about 56 years., I reside Vill- Raulia, P.O.- Amlagora ,Police Station- Garhbeta. , District - Paschim Medinipur , I am Private service holder. .

CROSS BY THE DEFENDANT

- 1.I an a practicing Advocate of Medinipur Judge' Court. I received writ from this Court and hold investigation commission in connection of T.S. No. 39/2014 and appointed as Advocate Commissioner .
- 2.It is fact that survey of science is best on geometry.
- 3.I have gave notice to the both the parties before conducting the commission work on the field but without seeing my report I can not say whether I gave notice to the Ld. Advocates of both the parties or not .
- 4.After seeing the Report . It has been mentioned in my Report that before conducting the commission work I sent notice to both the parties as well as their Advocates through postal department .
- 5.In support of this statement I have not filed any such document but I have mentioned in my encloser that 2 A/D cards has been returned with closed enveloped to me.
- 6.Not a fact that I sent notices to the parties and their Advocates and received 2 A/D cards.
- 7.I went to the field on 12.02.2017 at about morning 8.30 a.m. and I have not mentioned in my Report that how long the commission work was continued.
- 8.. At first fixed point has to be located to conduct an investigation commission and trijunction stone , insutive building, and old building , old tree may be considered as fixed point.
- 9.At the time of conducting this commission work I did not found any trigantion stone.
- 10.I hold the plot corner of north west corner of R.S. plot no 514, south west corner of R.S. plot 516, south east corner of R.S. plot of 1430 plot, south west corner of R.S. plot no 1430., north east corner of R.S. 1375 Danga, south east corner of R.S. plot 1375 danga, north west corner of R.S. plot no 1525 danga as fixed points and named them as K L M N O P &Q.
- 11.I have not mentioned the classification of plot no 514 in my report .
- 12.Not a fact that to take the fixed point of a plot corner the surrounding plot measurement need to be taken every time .
- 13.It is fact the that during the investigation the measurement of each arms and diagonal of the concerned plot has to be taken . Voluntary, when the arms of the plots are all right then diagonal will be perfect of the said plot.
- 14.I have not mentioned in my report about the diagonal of R.S plot nos. 514,516,1430 ,1375 and 11525.
- 15.Suit plots are 1427/2611 and 1428/2465 .
- 16.There was no such direction in respect that there is any fencing or demarcation wall in the suit plots along with the other adjoining plots.
- 17.I have adopted chain survey method and it has also known as triangulation survey.
- 18.I have used the metallic tape compared with gunter chain .
- 19.It has not mentioned in my report that I have used metallic tape which has compared with gunter chain .
- 20.I have mentioned in my sketch map of my Report that there is a structure standing on plot no 1428/2465 as per the plaint schedule .
- 21.At the time of conducting the commission work I took all the relevant off set measurement which were came in both sides of the chain line.

22. Not a fact to take the off set measurement is mandatory and it is not possible to take this always.
23. Measurement of four arms , of R,S, plot 1375, norther arm 170 ft, southern arm 142 ft. , western arm 65 ft. , and eastern arm is 102ft.,
24. Measurement of four arms , of R,S, plot 1525, norther arm 85 ft, southern arm 72 ft. , western arm 67 ft. , and eastern arm is 80ft.,
25. Measurement of four arms , of R,S, plot 516, norther arm 35 ft, southern arm 40 ft. , western arm 66 ft. , and eastern arm is 56ft.
26. Measurement of four arms , of R,S, plot 514, norther arm 63 ft, southern arm 61 ft. , western arm 26 ft. , and eastern arm is 33ft.,
27. Measurement of four arms , of R,S, plot 1430, norther arm 67 ft, southern arm 72 ft. , western arm 20 ft. , and eastern arm is 28ft.,
28. The oblique off set method will be applied if the distance from the chain line is more than above 50 ft.
29. In this commission there is no need of application of oblique off set method.
30. I have my initial signature in every pages of field book and the date has been mentioned in the first page of the book .
31. I have enlarged the measurement as four times of settlement mouza map (64 inch =1 mile scale) .
32. I have filed the four times enlarged sketch map in my Report.
33. I took the reference of plaint map at the time of commission map and also mentioned that in my Report.
34. I have marked the Ka schedule land as 1427/1126 b,c,d,e and 1428/2465 a,i,b, c,g,d and nd Kha schedule has been mentioned as d,e,f,g (structure) in my report .
35. Not a fact the there is existence of fixed point piratically and I conducted my commission as per such fixed point .
36. Not a fact I have done my survey work scientifically .
37. Not a fact that the report filed by me is not a biased one.

CHIEF BY PLAINTIFF

This is the said writ which I have received from this Court. After receiving the writ I sent notice to both the parties and their Advocates , I went to the field on 12.02.2017 and in presence of the local inhabitants and one local Amin of the defendants I hold the investigation , I have also served field notice at the field to both the parties . Prior to the investigation I sent notice to both the parties through registered post. This is the said field notice signed by plaintiff and the defendant . Filed diary has been prepared by myself and all who are present there signed the Filed diary and it has been written in Bengali. After fulfilling all the formalities I conducting the field work as per the direction of this Court. I prepared the field book and I have signed in its every pages . I have prepared my final report on the basis of my field book . The final report has been typed as per my instruction and after that I have submitted that in this Court and it also bears my signature . Let it be marked as

Exhibit 1 series.
(closed and discharged)

Civil Judge (Jr.Div) Addl. Court, Civil Judge (Jr. Div) Addl. Court, Garhbeta, Paschim Medinipur.
Garhbeta Paschim Medinipur

T.S. -8/25(09/2025)
(CNR- WBWM11- 000013-2025)

Order No. 04 , dated 13.02.2025

The record has been placed today on the strength of an put up application by the plaintiffs. Ld Advocate of the plaintiffs submitted before this Court that on 05.02.2025 this plaintiffs have got an ad interim injunction order against the defendants from this Court and the said order has been communicated to the defendants by the Ld. Advocate of the plaintiffs and the plaintiffs have also communicated he said order of this Court to the concerned O.C. of Goaltore P.S. but the said P.S but the plaintiffs did not get any assistance from the said P.S. and the defendants are continuing with their illegal construction work by disobeying the Court's order. Plaintiffs prayed before this Court for police help and for implementation of the order dated 05.02.2025. Plaintiffs filed the copies of Advocate letters dated 06.02.2025 , copy of letter dated 10.02.2025 by Ld. Advocate to the O.C. Goaltore.

Heard & considered.

On careful perusal of the case record this Court found that on 05.02.2025 this Court has granted ad interim order in favour of the plaintiffs and by such order this Court has restrained the defendants from disturbing the peaceful possession of the plaintiffs in the suit property in any manner and not to change the nature and character of the suit property in any manner. Now plaintiffs alleged that the defendants are continuously raising construction in spite of communicating the order dated 05.02.2025 from the ends of the plaintiffs . From the perusal of the document filed by the plaintiffs it has cleared to this Court that Ld. Advocate has already informed the defendants regarding the order dated 05.02.2025. In my opinion , the spirit of the ad interim order dated 05.02.2025 is to be implemented and also to be protected other wise the force of the order dated will be infructuous. Hence , it is

ORDERED

The O.C. , Goaltore , is hereby directed to visit the suit property as soon as possible and implement the order dated 05.02.2025 passed by this Court and also make it sure to this Court that the plaintiffs' peaceful possession in the suit property is not disturbed by the defendants by raising any construction work and also sent a report to that effect with in 25.02.2025.

Petition dated 13.02.2025 , filed by the plaintiffs be and the same is here by allowed .
To date .

S/d- Lipika Das
Civil Judge Jr. Div. Additional
Court Garhbeta.

Copy of order Civil Judge(Jr. Div) Additional Court, Garhbeta.

No

Dated

Order no. 55, dated 14.02.2025

Today is fixed for evidence of P.W. 3 .

Both the parties file their representative haziras through their Ld. Advocates .

Ld. Advocate of the plaintiffs filed one application along with a certified copy of R.S. ROR of khatian no 34/1 of Bahadurpur Mouza, J.L. no 606 and prayed before this Court for admission of the document on the part of the plaintiffs.

Ld. Advocate of the defendants did not raised any objection so far.

Heard & considered .

ON careful perusal of the case record this Court found that earlier the plaintiffs have already exhibited seven (7) documents in this suit and now the plaintiffs intend to exhibit one certified copy of RS. ROR , khatian 34/1 . In my opinion this particular certified copy of RS. ROR , khatian 34/1 is a public document and can be permitted to the plaintiffs to exhibit the said document on their parts. Thus, the said certified copy of RS. ROR , khatian 34/1 be and the same is marked as Exhibited 8 . Hence , it is

ORDERED

The petition dated 14.02.2025 filed by the plaintiffs be and the same is hereby allowed .
B/C is hereby directed to make necessary addition in the Exhibit list.

Nex date: 11/03/2025 for evidence of P.W-3.

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T/C

Civil Judge Jr. Div. Additional
Court Garhbeta.

District: Paschim Medinipur
In the court of Civil Judge (Jr.Div) Additional Court Garhbeta.
Present:- Miss Lipika Das, Civil Judge (Jr. Div) Addl. Court, Garhbeta.

T.S- 10 /25 (CIS- 11/25)
(CNR- WBWM11-000019 -2025)

AJAY MURMU + OTHERS.....Plaintiffs

: Vs :

KANKA MANDI + 8 OTHERS.....Defendants

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Order No. 01 Dated 15/02/2025

Plaint filed today by plaintiff supported by affidavit, which is duly verified and stamed by the Sheristader. Caviat filed on .Plaintiff also files a Vokatnama, along with true Copy of plaint and documents as per list and prays for **Declaration and permanent injuntion** on the ground stated therein. Suit for parmanent injuntion valued Rs. 100/-. Plaintiffs also files requisite upon defendants. P. Fees paid.

Fix : **02/04/2025** for S/R.

Civil Judge (Jr. Div) Addl. Court
Garhbeta, Paschim Medinipur
Judicial Code WB01479

Title Suit –10 Of 2025
CNR – WBWM11 – 000019 - 2025

Later on

“No caveat” is pending.

Plaintiffs has filed the instant suit against the defendants seeking declaration and permanent injuntion.

The plaintiffs filed an injuntion petition under O. 39, R. 1 & 2 of CPC ,along with the plaint against the defendant nos. 1 to 5 in respect of the suit property mentioned in the schedule ka and kha of the the plaint.

The facts of the case in nutshell, Dist – Paschim Medinipur , P.S. Garhbeta, bagri – Pargona J.L. No 618 , mouza- Ponchadahora , in L.R.ROR ROR 645 and 646 Khatian, dag no 1 , 32 decimal of Bastu land , is the suit property. According to the plaintiffs, the suit property in J.L. No 618 , mouza- Ponchadahora, R.S. ROR 1 khatian , property of dag no 1 was belonged to Government of West Bengal and the present plaintiffs are belonged to Schedule Tribe (Santal) and being a permanent inhabitants of of District Paschim Medinipur , Sub Divisional Officer of Paschim Medinipur has issued Provisional certificate in the name of plaintiff no 1 the property of Forest Department of Garhbeta Bolk no 1, Shyamnagar Gram Panchayat , and it is the Ka schedule property of this suit and that property has been give to the plaintiffs

to reside over there and the said authority has given the title for Forest land under occupation and one title of the said Ka schedule property has been given to the plaintiffs from Divisional forest officer Medonipur and Additional District Magistrate (L.R.) cum D.L.& L.R.O. , Paschim Medinipur and that has been given as per Sub section 4 of Section 4 of WBLR. Act and since the plaintiffs are possessing and enjoining the Ka schedule property as their own lawful property .The plaintiffs are using some portion of the Ka schedule property for potato cultivation, in some portion there is bamboo trees, and some portion has been used as Doba and as the plaintiffs are in possession of the total Ka schedule property their names has been recorded in L.R. ROR 645 and 646 khatians in dag no 1 as 16 decimal of land . and it is not a transferable property as per the Forest Law, 2006 and the names of the plaintiffs has been finally published in L.R. khatian no 645 and 646. According to the plaintiffs the defendant no 1 to 5 never have any right, title, interest and possession over the suit property and the have not got any land Title for Forest land under occupation from the Government and they are very greedy persons and they also have connection with anti social persons and they have made a plan to make plinth in some portion of the 1/1 Ka schedule property of the plaintiffs and on 23.01.2025 in early morning they have illegally entered in the suit property with a motive to raise a house consist of two rooms and started plinth work over there and after getting the information the plaintiffs along with the other villagers rush to the suit property and resisted them and the defendants left the suit property but they gave threat to the plaintiffs that they will entered in the suit property forcefully and also raise building over there . As 23.01.2025 was a declared holiday the plaintiffs made written complaint before the local Gram Panchayat and before the Sandhipur Police Fari and since then the defendants did not came to the suit property. Again on 11.02.2025 the defendant no 5 gave threat to the plaintiffs that they will construct rooms in the suit property and they have started building materials and ultimately the plaintiffs are compelled to institute this suit.

The cause of action arise on 23.01.2025 and 11.02.2025 at the suit property within the jurisdiction of this Court

The plaintiff has filed some documents i.e., original title for Forest Land under Occupation issued by D.L.& L.R.O,Officer , Medinipur, Provisional certificate in the name of plaintiffs issued by Office of the Sub- Divisional Officer , Paschim Medinipur, L.R. ROR of the suit khatian no 1 and L.R. ROR 645 and 646 stands in the name of plaintiffs.

Perused the materials available on record.

So, I find a prima facie case in favour of the plaintiff as it is very clear from the documents of the plaintiffs that they have possession over the suit property . The balance of convenience and inconvenience also lies in favour of plaintiffs. If the defendants will successful to dispossess the Plaintiff from the suit property then plaintiff will suffer irreparable loss and injury . Accordingly, plaintiff is entitled to get ad interim order.

Hence, it is

ORDERED

that, the defendant nos. 1 to 5 are hereby restrained from changing the nature and character of the suit property by dispossessing the plaintiffs from the suit property and the defendants are also restrain from raising any kind of construction in the suit property in any manner .

The order of ad interim injunction is subject to extension from time to time, if prayed for and allowed or unless changed or varied.

Plaintiffs are directed to comply with this order strictly according to law.
To date for filing objection by the defendants if any.

D/c by me.

Civil Judge Jr.Divn
Additional Court Garhbeta.

T.S. -07/25(09/2025)
(CNR- WBWM11- 000012-2025)

Order No. 03 , Dated 17.02.2025

The record has been placed today on the strength of an put up application by the plaintiffs. Ld Advocate of the plaintiffs submitted before this Court that on 05.02.2025 this plaintiffs have got an ad interim injunction order against the defendants from this Court and the said order has been communicated to the defendants by the plaintiffs and the plaintiffs have also communicated he said order of this Court to the concerned O.C. , Chandrakona Road Beat House , Paschim Medinipur through registered Post but the plaintiffs did not get any assistance from the said O.C. , Chandrakona Road Beat House , Paschim Medinipur for obedience of order dated 05.02.2025 by the defendants and the defendants are continuing with their illegal work by breaking the toilet sanitizer pipe line and the corner of the toilet chamber by disobeying the Court's order and openly told to the plaintiffs that , the plaintiffs could not do anything with this Court order dated 05.02.2025 as this order has no value to them . Plaintiffs prayed before this Court for police help and for implementation of the order dated 05.02.2025 passed by this Court. Plaintiffs filed the copies of letters dated 12.02.2025 sent to the O.C. , Chandrakona Road Beat House , Paschim Medinipur , copy of letter dated 10.02.2025 with postal receipt and a copy of a photograph.

Heard & considered.

On careful perusal of the case record this Court found that on 05.02.2025 this Court has granted ad interim order in favour of the plaintiffs and by such order this Court has restrained the defendants from removing the toilet chamber of the plaintiffs from the suit property and also restrained from raising any construction in the suit property in any manner. Now plaintiffs alleged that the defendants has broken the sanitized pipe and one corner of the toilet chamber . From the perusal of the document filed by the plaintiffs it has cleared to this Court that plaintiffs has already informed the defendants regarding the order dated 05.02.2025 and O.C. , Chandrakona Road Beat House , Paschim Medinipur but no one of them has obeyed the order dated 05.02.2025 passed by this Court .In my opinion , the spirit of the ad interim order dated 05.02.2025 is to be implemented and also to be protected otherwise the force of the order dated 05.02.2025 passed by this Court will be vitiated. Hence , it is

ORDERED

The O.C. , Chandrakona Road Beat House , Paschim Medinipur , is hereby directed to visit the suit property as soon as possible and implement the order dated 05.02.2025 passed by this Court and also make it sure to this Court that the plaintiffs' peaceful possession in the suit property is not disturbed by the defendants and the restrained the defendants from further any act of disobedience of order dated 05.02.2025 and also sent a report to that effect with in 28.02.2025 positively.

Petition dated 17.02.2025 ,filed by the plaintiffs be and the same is here by allowed .
To date .

Civil Judge Jr. Div. Additional
Court, Garhb

T.S. 22/24(CIS- 46/24)
(CNR -WBWM- 000071-2024)

Order No. 06 dated 18.02.2025

Today is fixed for taking steps by the plaintiff upon the defendants no 3,5 and 6 and filing written statement by the defendant no 1 and hearing petition U/S -151 of CPC dated 16.01.2025.

Plaintiffs filed one Adjournment petition for taking steps upon defendant no 3,5 and 6 and defendant no 1 has also filed one adjournment petition for filing written statement on the next day .

Ld Advocate for the plaintiffs submitted before this Court that prior to the institution of the present suit the defendant no 2 died and the name of the deceased defendants no 2 should be expunged for the ends of justice .

Ld Advocate for the defendant no 1 raised strong objection against this application and submitted that before filing of the suit the plaintiff must have knowledge about all the parties of the suit and how could the plaintiffs file this present suit against a dead person.

Heard & considered .

On careful perusal of the materials available in the case record this Court found that it has been mentioned in returned summons of defendant no 2 that "deceased , so R.T.S " and it is very clear to this Court that defendant no 2 namely Bamapado Ghosh is dead. Hence , it is

ORDERED

the petition U/S -151 of CPC dated 16.01.2025 filed by the plaintiffs be and the same is here by **allowed on contest** with a cost of Rs.500/- .

BC is hereby directed to make necessary do necessary note in the cause title of the plaint. The other two adjournment petitions are allowed .

Next dated **24.03.2025** for taking steps by the plaintiffs upon defendant no 3,5 and 6 and also for filing w/s by the defendant no 1 positively and payment of cost of Rs. 500/- by the plaintiffs to the defendant no 1 positively.

T/C by me

Civil Judge Jr. Div Additional
Court, Garhbeta.

T.S. No - 46/22(CIS - 94/17)
CNR -WBWM11- 000120-2017

Order no 72, dated 18.02.2025

Today is fixed for P.H. of the suit .

Both parties files representative haziras through their Ld. Advocates.

The plaintiff filed one petition under O. 22 R. 2 of CPC, dated 18.02.2025 and submitted before this Court that Tapan Mondal ,defendant no 7 died on 15.01.2025 (1st Magh, 1431B.S.) , leaving behind him two brothers and they are plaintiff of this suit and the defendant no 2 as his legal heirs and both of them already on record and no death certificate of defendant no 7 has been filed with this petition.

Ld. Advocate of the defendant raised no objection rather support the plaintiffs submission. Heard & consider.

Considering the submission of both the sides this Court pointed that the present substitution petition of defendant no 7 has been made well within time and all the legal heirs of deceased defendant no 7 are already on record . Hence , it is

ORDERED

The petition O. 22 R. 2 of CPC, dated 18.02.2025 filed by the plaintiff be and the same has been allowed at the risk of the plaintiff.

Next date **24.03.2025** for P.H. of the suit.

T/C by me

Civil Judge Jr. Div. Additional Court
Garhbeta.