

District: Bhojpur

In The Court of Sub-Judge II, Piro

Title Suit no. - 559/2015

Order

06-12-2023 : There is attendance of the plaintiff and defendant through their Ld. Counsel. Case is pending for hearing on petition dt. 24-05-2022 and its rejoinder dt. 31-03-2023 and 16-06-2022.

On call Ld. Counsel for the plaintiff appeared and moved his petition dated 09-08-2023 filed under Order 39 Rule 1 and 2 u/s 151 of the C.P.C. Ld. Counsel for the plaintiff submit that the plaintiff has filled the suit for partition. The defendant has sold some part of the disputed property. The defendants are further negotiating for sale of the disputed property. The defendant wants to further sale the property. The plaintiff will suffer irreparable loss. Prima-facie case and balance of convenience is in favour the plaintiff. So temporary injunction to restrain the defendant from sale of the disputed property is necessary.

Ld. Counsel for the defendant no 2 support the petition of the plaintiff and submit that without permission of the court disputed property should not be sold .

Ld. Counsel for the defendant no1 opposed the petition of the plaintiff and submit that defendant no 1 has sold the property to fulfil his necessity and for his treatment. Defendant no 1 is helpless person. Prima facie case and balance of convenience is not in favour of the plaintiff. The entire statement of the plaintiff is baseless and fabricated. The plaintiff has filled the petition only who linger the case.

Heard and perused the record. After perusal of the same this court finds that the suit has been filled for partition. Defendant no 1 has not denied from execution of the sale deed during the proceeding. In such circumstances this court finds that prima-facie case and balance of convenience in favour of the plaintiff. The plaintiff would have to suffer irreparable loss. The injunction is also necessary in the interest of justice to restrain the multiplicity of the suit and to avoid the multiple petition and unnecessary delay in disposal of the suit. Therefore, petition dt. 24-05-2022 filled under Order 39 rule 1,2 and 3 u/s 151 of the C.P.C. is ordered to be allowed to restrain the party to the suit from further sale of the disputed property.

Put up on.....for further hearing.

**(Aditi Gupta)
S/c Sub Judge II
Civil Court Piro**