

In The Court Of Civil Judge (Junior Division), 3rd Court, Paschim Medinipur.

Order No.-02 Dated 10-12-2020:

The plaintiff files a put up petition.

The record is taken up for hearing and is taken up for hearing today.

The plaintiff moves before the court the petition under 39 rule 1 and 2 for an order of ad interim injunction.

Seen the case record and noted that no caveat is pending.

The plaintiff file some documents by firisti in xerox.

Let it be kept with the record.

Now, let us consider whether on the basis of the statement made on affidavit by the plaintiff and the documents filed by him, an order of ad interim injunction as prayed for can be granted at this stage prior to issuance of notice upon the defendant against whom the said prayer of ad interim injunction is made.

The case of the plaintiff in nutshell is that Late Gunadhar Mandal, Late Sudhir Mandal and Late Ananta Mandal were the original land owners and they purchased the suit plot along with other plots jointly by deed no. 5885 of 1942. While the said three brothers were in joint possession over their purchased properties, they separated from each other by way of family arrangement dated 17.04.1952 and partitioned their properties and accordingly a memo of partition was prepared which was further registered in the year 1969. As per the partition deed, the above said Ananta Mandal got the 'A' schedule property who died in the year 1985 leaving behind his three sons and four daughters namely Biman (herein the plaintiff), Dulal, Arun, Madhuri, Pramila, Minati, Jharna and wife Laxmipriya. Accordingly the said legal heirs inherited 1/8 th share upon the property of late Ananta Mandal. While the said legal heirs were exercising their right, title, interest and possession over the schedule suit properties, one of the daughter namely Jharna Rani Mandal transferred her 1/8 th share by a registered deed of gift being no. 1152 of 1989 in favour of the plaintiff and his other two brothers. Later, the other three daughters and wife of late. Ananta Mandal transferred their share by a registered deed of gift being no. 2482 of 2004 to the plaintiff and other two brothers. Accordingly, the plaintiff and his other two brothers became the absolute owner of the 'A' schedule plot of land in the aforesaid manner. However, a deed of partition was effected being no. 1374 of 2004 and by that deed of partition, the plaintiff got the 'Ka' schedule property, Dulal got the 'Kha' schedule property and Arun got the 'Ga' schedule property. Accordingly the name of the plaintiff has been duly recorded in the LRROR with respect to the schedule suit property. Since after the partition, the plaintiff has been in possession over the 'A' schedule suit property . However, the defendants known to be land grabbers are very dangerous persons and suddenly on 18.11.2020, they came over the suit property and tried to occupy the suit property forcefully. Having no other alternative the plaintiff has filed the instant application under Order XXXIX Rule 1 and 2 of C.P.C and prayed for ad-interim order of injunction.

Perused the plaint, affidavit, petition, documents submitted along with the petition.

To support his case, the plaintiff has filed the photocopy of deed being no. 5885 of 1942, Partition deed being no. 9257 of 1969, Gift deed being no. 1152 of 1989, Gift deed being no. 2482 of 2004, Partition deed being no. 1347 of 2004, LRROR with respect to hatian No. 163 and G.D.E. being no. 597 dated 18.11.2020.

On scrutiny of the documents filed by the plaintiff, the Court is of the view that the plaintiff has acquired the schedule suit property by virtue of the above said deeds. The plaintiff's possession with regard to the 'A' schedule suit property has been well proved by the record of rights filed herewith. The notion is quite clear about the record of rights and it states that the name of persons whose name appear in the record of rights are deemed to be possessor of the suit land unless it is challenged by the adversary claiming some right and interest over the same land. As stated by the plaintiff that the defendants illegal acts need to be restrained, otherwise the plaintiff may suffer irreparable loss and injury which is evident from the copy of G.D.E. Thus, the Court thinks that the very object of granting temporary injunction would be defeated by delay if the suit involved in the instant suit is not preserved till the final disposal of the suit. Further, if the acts of the defendants is not checked at this point of time then the plaintiff might suffer irreparable loss and injury which cannot be compensated subsequently by any pecuniary aid. So, the Court thinks that the prayer for ad-interim injunction should be allowed at this stage.

Hence, it is

ORDERED

that the defendant no. 1-9 are hereby restrained from disturbing the peaceful cultivation of the plaintiff with respect to the 'A' schedule suit property in any manner whatsoever till 13.01.2021. Thus, IA/1/2020 is disposed off accordingly.

Issue notice upon the defendants to call upon them to show cause within 15 days from the receipt of such notice as to why the plaintiff's prayer for an order of temporary injunction shall not be granted.

Plaintiff is directed to comply the provisions of order 39 rule 3(a) and (b) C.P.C.

Requisites at once.

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To date for S/R and appearance.

*Civil Judge (Junior Division)
3rd Court, Paschim Medinipur*