

In the Court of Civil Judge (Jr. Div.) 3rd Court, Asansol
Present: Nilanjana Bandyopadhyay
Title Suit No. 615 of 2022/ CNR No. WBBD08000780/2021

Order no. 2
Dated: 04.11.2022

The record is put up today.

Ld. advocate for the plaintiffs moves the petition under Order 39 Rule 1 and 2 C.P.C.

Heard Ld. Advocate.

Perused the plaint, affidavit, petition documents filed by the plaintiffs.

No caveat is pending as per the noting of the Sheristadar.

The gist of the plaintiffs' case is such that the suit property originally belonged to one Abdul Hafiz i.e. father/ grandfather of the plaintiff and from the said person plaintiffs inherited the suit property. Plaintiffs are in possession of the suit property. Thereafter an amicable partition took place in between the co sharers and all are in possession of their allotted portion. Thus plaintiffs are in possession of the suit property by way of inheritance by exercising various acts of possession. On 24.10.22 plaintiffs intended to make constructional work in their property and started to make the same but suddenly the defendants tried to disturb in the matter of construction work. Defendants have no right, title and possession over the suit property. Plaintiffs tried to restrain the defendants and also went to local P.S. but no fruitful result came out. Under such circumstances, the plaintiffs have filed this suit for proper relief.

In order to establish their contention the plaintiffs have filed LR Khatian no. 103 which shows that the suit property is recorded in the name of Abdul Hafiz the father of plaintiff no.1. Also perused the ground rent receipt dated 02.08.2007. Also perused the burial certificate of said Abdul Hafiz and it appears that death of death is 29.04.1967. Plaintiffs have filed one electric bill in the name of plaintiff no. 2 for the period from August to October 2022. Plaintiffs have not filed a single paper showing that their names are recorded in respect of the suit property and they are the present recorded owner. The burial certificate of Abdul Hafiz shows that said predecessor of the plaintiffs have died long long ago. Apart from that plaintiffs have failed to show urgency in their favour by cogent proof. There is no document on record to show the alleged overt act by the defendants. Thus it appears that plaintiffs have failed to establish a prima facie case in their favour. Accordingly, this Court is not inclined to pass any order of injunction at this stage in favour of the plaintiffs.

Hence, it is

ORDERED

that plaintiffs' prayer for ad-interim injunction is considered and refused.

Issue notice upon the defendants calling upon them to show cause within 15 days from the date of receipt of the notice as to why the prayer for temporary injunction shall not be granted against them.

D/C by me

Civil Judge (Jr. Div.),
3rd Court, Asansol.
J.O. Code-WB01322

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