

Present : Sri Kaustabh Bandyapadhyay

(J.O. Code: WB01463)

Title Suit No.638 of 2022

(CNR No. WBHG04-000 -2022)

Order No.: 02,

Dated: 07.11.2022.

The record is put up today on the prayer of the Ld.Advocate for the plaintiff to move for ad-interim injunction.

The put up is allowed.

The SDR is directed to give Caveat noting and then to place the same before the Ejlash.

Dictated & Corrected by me,

Sd/- K. Bandyapadhyay.

Sd/- K. Bandyapadhyay.

Civil Judge (Jr. Divn.)

Civil Judge (Jr. Divn.)

2nd Court, Chinsurah, Hooghly

2nd Court, Chinsurah, Hooghly

Later :-

This is 12:30 pm now.

The record is placed before the Ejlash.

Perused the pleadings of temporary injunction and the supporting evidence as well as the documents placed before me.

Seen the report of the Sheristadar and the note that no caveat is pending as on date 07.11.2022.

Heard the Ld. Counsel for the plaintiff.

Considered.

The case of the plaintiff in a nutshell is that the plaintiff is the owner and possessor of the 'A' schedule property situated in L.R plot No.08 measuring about 5 satak. Plot No.06, property of the defendant, as mentioned in the 'B' schedule is situated in the Northern side of the property of the plaintiff i.e., plot no.08. Now, the defendant has been raising illegal construction by encroaching upon the property of the plaintiff as specifically mentioned in the 'C' schedule and without leaving any statutory space from the common boundary wall. The plaintiff has repeatedly requested the defendant not to do so and also has informed the competent authorities. But the defendant denied to stop illegal construction. Hence, this suit.

Plaintiff has filed by firisti seven (07) original documents.

Perused the documents submitted by the plaintiff. After perusing the title deed and also the L.R.R.O.R, the Court is satisfied at this stage about the prima facie title and possession of the plaintiff over the 'A' schedule property. 'C' schedule is part and parcel of the 'A' schedule property which is alleged to be encroached by the defendant by illegal construction. Perused the letters as produced by the plaintiff addressed to the competent authorities informing illegal construction by the defendant and the letter of the Prodhan, Sija-Kamalpur Gram Panchayat, Khamargachi, P.S-Balagarh, Hooghly dated 19.10.2022 intimating the -

CONTD....

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- defendant Raju Debnath regarding the stopping of illegal construction. Also perused the photographs as produced by the plaintiff. On perusing all these documents, the Court is satisfied, at this stage, the plaintiff has a prima facie case.

In this situation, if the defendant becomes able to raise further illegal construction encroaching the suit property, the plaintiff will suffer greater inconvenience. So, the balance of convenience and inconvenience lies in favour of the plaintiff.

Such being the situation, if the allegation raised by the plaintiff is supposed to be true, then the plaintiff may suffer irreparable loss and injury and that may also cause multiplicity of judicial proceedings. So, considering the urgency, I am inclined to allow an order of ad-interim injunction, at this stage.

Hence, it is,

ORDERED

that the instant petition be and the same is **allowed** at this stage.

The defendant is hereby strictly restrained from raising any kind of further construction in the 'B' as well as 'C' schedule mentioned suit properties in any manner whatsoever till 07.12.2022.

Plaintiff to comply with provisions of **Order 39 Rule 3(a) and 3(b) of the CPC, 1908.**

Issue notice upon the **defendant** to **S/C within 15 days** from the date of receipt of notice as to why the prayer of temporary injunction as prayed for by the plaintiff shall not be allowed.

Plaintiff to file urgent requisites at once.

Dictated & Corrected by me,

Sd/- K. Bandyapadhyay.

Civil Judge (Jr. Divn)

2nd Court, Chinsurah, Hooghly

Sd/- K. Bandyapadhyay.

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Later :

Plaintiff moves a petition under Order 39, Rule 7 of the CPC dated 05.11.2022 for issuing a Local Inspection Commission.

The same is taken up for hearing.

Heard Ld.Advocate for the plaintiff in full.

Perused the petition for local inspection. The points of inspection are well within ambit of local inspection. The Court is of the opinion that to bring the actual picture of condition of the suit property before the Court, the local inspection commission is the need of the hour.

Hence, it is

ORDERED

that the instant petition be and the same is allowed.

Let **Muktar Ali Mondal** be appointed as Ld. Advocate Inspection Commissioner who shall execute the commission work in terms of the petition after complying the formalities with regard to the service of notice upon all sides and shall submit his report **IMMEDIATELY WITHIN 15 DAYS.**

Plaintiff is directed to pay Rs.3,000/- (Three thousand rupees only) along with relevant requisites to the Ld. Advocate Inspection Commissioner.

Fix **23.11.2022** for Commission Report.

Dictated & Corrected by me,

Civil Judge (Jr. Divn.)

Sd/- K. Bandyapadhyay .

2nd Court, Chinsurah, Hooghly

Civil Judge (Jr. Divn.)

Sd/- K. Bandyapadhyay.

2nd Court, Chinsurah, Hooghly

Later :

Plaintiff files a duly verified petition for **getting back the original unexhibited documents** filed at the time of hearing of ad interim injunction petition.

Heard. Considered.

Prayer is allowed.

Let the said documents be returned to the Ld. Advocate for the plaintiff on record **after due verification** and on proper receipt and with a direction to file the same as and when ordered by the Court.

Dictated & Corrected by me,

Civil Judge (Jr. Divn.)

2nd Court, Chinsurah, Hooghly

Civil Judge (Jr. Divn.)

2nd Court, Chinsurah, Hooghly