

Order no.7
Dated : 03.08.2023

Ld. Advocate for the plaintiff files respective *hazira*.

Today is fixed for ex parte hearing (of the temporary injunction application).

Ld. Advocate for the plaintiff moved the application under Order XXXIX Rule 1 and 2 of CPC and submitted inter alia that he acquired the 'A' scheduled property by virtue of two deeds of sale being no.I-3506 and I-3505 dated 16.10.1998. Thereafter, he got his name recorded with the concerned revenue department. He averred that the defendant no.1 was permitted by him to use the house situated in the 'B' scheduled property for a period of two years. He alleged that after the lapse of the two years he requested the defendants to hand over the vacant possession but they turned a deaf ear to those request. He further alleged that they also tried to dispossess him from the northern side of the 'A' scheduled property. Under the aforesaid circumstances, he filed the instant suit along with an application under Order XXXIX Rule 1 & 2 read with Section 151 CPC.

It is pertinent to mention here that although the defendants entered their appearance in this suit on 05.03.2022, they failed to file the written statement within the statutory period. Therefore, the suit proceeded ex parte against them.

On perusal of the record, it appears vide order dated 23.06.2023 that the suit proceeded ex parte against the defendants due to their non-appearance despite due service of summons.

This court carefully perused the document filed by the plaintiff.

Therefore, considering the observation made by this court in the order dated 16.11.2022 failure of the defendants to contest the suit, unchallenged facts as stated in the plaint vis a vis the settled principles of law regarding temporary injunction, this court opines that the an order of status quo will suffice the intent of the legislature and that of the plaintiff at this stage of the suit.

Hence, it is

ORDERED

that both the parties are directed to maintain status quo in respect of nature, character and their possession as on today till the disposal of the suit.

The application under Order XXXIX Rule 1 & 2 read with Section 151 CPC stands disposed off.

Ld. Advocate for the plaintiff files affidavit in chief in respect of PW-1 namely Urmila Ghosh. Let the same be kept with the record.

Fix 01.12.2023 for evidence.

Dictated and corrected

by me:

(Smt. Moumita Mitra)
Civil Judge (Junior Division),
2nd Court, Jalpaiguri.
(J.O. Code No.WB01409)

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