

Title Suit – 26 of 2021

Order No. 03 dated 04.02.2021

Plaintiff filed an application under Order 39 R 1 and 2 of C.P.C., praying for issuing an order of *ad-interim* injunction against the defendants. As such, they have prayed for an order of ad-interim injunction.

This is a suit for declaration, partition and injunction.

The specific case of the plaintiff is that the schedule property originally belonged to Sk Noor Hossain and Sk Nurul Huda the predecessor of defendants herein. They became the owner by way of purchased vide sale deed being no. 4726 of 1969. Accordingly they mutated their name in the LR record of right having 8 annas share each. It is further the case that the defendants with ulterior motive are disturbing the peaceful possession of the plaintiff over the suit property with intention to grab the same. And they have also refused to make partition of the suit property in accordance with law. Under such compelling circumstances, the plaintiff has prayed for an order of ad interim injunction.

On perusal of the record, I find that the plaintiff has filed the certified copy of deed of sale from which it is evident that the plaintiff has purchased the scheduled property jointly with the predecessor of the defendant namely Sk Nurul Huda. A prima facie case therefore stands in favour of the plaintiff as being the co-sharer of the suit property having $\frac{1}{2}$ share.

It has been alleged that the defendants who are also the co-sharers of the suit property being the legal heirs of Sk Nurul Huda are disturbing the peaceful possession of the plaintiff prejudicial to the interest of the plaintiff. The allegations as made by the plaintiff is to be proved at the time of trial but as the property is the joint property a co-sharer cannot disturb the possession of the other co-sharer and as alleged if the plaintiff is dispossessed from his share over the suit property it may give rise to multiplicity of proceedings. The balance of convenience and inconvenience therefore lies in favour of the plaintiff.

Hence, it is

Ordered

that the instant petition praying for ad-interim injunction is allowed at this stage *ex-parte*.

The defendants are hereby restrained from disturbing the peaceful possession of the plaintiff over the suit property till 02.03.2021.

Issue notice upon the defendants asking them to show cause within 02.03.2021, as to why the prayer for temporary injunction shall not be allowed against him. Requisite at once.

Plaintiff to comply the provision of Order 39 R 3 (a) & 3 (b) of C.P.C at once.

Fix **02.03.2021**, for filing show-cause by defendants.

D/C by me.

Sd/-

**Civil Judge (Sr. Divn.),
Serampore, Hooghly.**

Sd/-

**Civil Judge (Sr. Divn.),
Serampore, Hooghly.**

