

T.S 171 OF 2022
CNR No: WBWMOK0000242-2022
Jo Code:WB01513

Order No:- 21 Dated 22-11-2024

Schedule 'A': District-Paschim Medinipur, PS-Narayangarh, Mouza- Ambishan, previous Khatian No.83, present L.R Khatian No.397, JL No- 500, L.R plot No.265, Jol soym area 11 decimals out of 37 decimals. Butted and bounded by North-Gurupada Senapati and Bolai Senapati, South-Irrigation canal and Bolai Senapati, East-Defendants, West-Basudev Maji.

Schedule 'A/1': District-Paschim Medinipur, PS-Narayangarh, Mouza- Ambishan, previous Khatian No.83, present L.R Khatian No.397, JL No- 500, L.R plot No.265, area 11 decimals out of 37 decimals.-----4 ft x 40 ft wide strips in the Eastern side.

Schedule 'B': District-Paschim Medinipur, PS-Narayangarh, Mouza- Ambishan, JL No- 500, L.R plot No.271, area 28 decimals.

Documents Exhibited are:

1. Original Sale deed No.18104/21 executed by Ananta Kumar Bera to Kanchan Maji. **Exhibit -1**
2. Computarized L.R Khatian No.397 in the name of plaintiff **Exhibit-2**
3. Certified order sheer under section-144 of Cr.p.C from executive Magistrate, Kharagpur Case No.299/22 **Exhibit -3**
4. W/O filed by plaintiff to the BDO, Narayangarh **Exhibit-4**
5. Original copy of GDE sent to Narayangarh **Exhibit-5**
6. Original letter from Polution Control Boar to the BDO, Narayangarh **Exhibit-6**

This suit is for declaration and injunction and recovery of possession:-

The A schedule property belonged to father of plaintiff (Ananata Kumar Bera) and he got it by virtue of partition deed 6000/2001 dated 21/08/2021. His name was recorded in LR ROR under khatian No. 83. He transfered the same to plaintiff by deed of gift dated 28-09-2021 and he got "Kha Schedule" of the gift deed. After acceptance of gift the plaintiff is possessing by and residing in house ny planting many trees in other portions of the suit property and fenced the schedule "A" property.

Schedule 'B' is adjacent East of 'A' schedule property and the defendants are the owners of 'B' schedule property. The cause of action arose when the defendants started construction of Poltry firm over the 'B' schedule by cement pillars and asbestos shed and encroaching some of the portions from the Eastern side of the 'A' schedule property thereby demolishing the bamboo fencing of the 'A' schedule property. The plaintiff also filed complaint to local P.S on 02.05.2022 and also a Petition Case before Executive Magistrate on 02.06.2022. The defendants engaged huge number of labour and completed his illegal construction of poultry firm and started operation of his poultry firm creating health hazards

and environmental guidelines for poultry firm. Thus, plaintiff prays for declaration of title of over schedule 'A' property. The plaintiff further prays that the defendants have no right to create a poultry firm over their 'B' schedule property without leaving 500 meters from the boundary of 'A' schedule property and recovery of possession over 'A/1' schedule property.

The plaintiff complied all the procedures for summons and many opportunities have been given to the defendants to contest this suit but they chose not to contest.

The witness deposed as:- Kanchan Maji as P.W.1 and Gopal Chandra Mana as P.W. 02.

The plaintiffs have submitted deeds Exhibited no 1 in favor of kanchan Maji. It is proved that a complaint of the case has been instituted before executive Magistrate, Kharagpur. Defendants have not appeared and thus there is no proof of any license or permission the creating the poultry farms. No mandatory space has been left by the defendant while constructing the boundary. Testimony of PW1 and PW2 was given under oath. The evidences are unchallenged and appears robust and uncontradicted.

The plaintiff complied all the procedures and many opportunities have been given to the defendants to contest this suit but they chose not to contest.

Thus, based on above appreciation of evidences, the court concludes that plaintiff has successfully established that his title to the property in question. The evidence provided is cogent, credible and sufficient to grant relief sought.

Considering the urgency of the matter and the documents exhibited, which prima facie show the plaintiff's right over the *Schedule A* property and the illegal encroachment by the defendants, the following ex parte order is passed:

Accordingly the suit is decreed ex party in favor of the plaintiff.

Court fee paid is correct.

Hence it is

ORDERED

1. That the instant suit be and same is decreed exparty, without costs.
2. The plaintiffs have the right, title and interest over the 'A' schedule property.
3. The plaintiff is further granted an order for the recovery of possession of the *A/1* schedule property, which has been encroached by the defendants and the defendants are directed to leave the encroached portion as mentioned under *A/1* schedule.
4. The defendants are permanently injuncted from causing any disturbances in peaceful possession of the plaintiff over the 'A' schedule property.

Dic. & Corr by me

Civil Judge (Jr. Divn.)
Kharagpur Paschim Medinipur

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