

T.S. 242 of 22
C.N.R No. WBWMOJ000392-2022
J.O. Code-WB00957

Contd. order no. 1 dated 18-07-22

Ld. Advocate for the plaintiff move the ad-interim injunction petition.

Seen the report of the Sherestadar which reflects that no caveat has been filed till today.

The petition of the plaintiff under Order 39 Rule 1 and 2 read with Section 151 CPC against the defendants no. 1 and 2 is taken up for hearing.

Ld. advocate for the plaintiff submitted that the suit property was the purchased property. The total area of the suit plot no. 806 is 142 decimal. The plaintiff purchased 7 decimals land mentioned in schedule 'ka/1'. After purchasing the said land, the plaintiff mutated his name in L.R.R.O.R and possessed the same. Defendants have right, title and interest over the rest portion out of 'ka' schedule suit property and the defendants no. 1 and 2 has 7 decimals land in the 'ka' schedule suit property. The suit property was unpartitioned. Suddenly, defendants no. 1 and 2 are trying to construct pucca building over the pathway, plaintiff is used for his egress and ingress and threatened to cut down the trees from the suit plot forcibly and illegally. For that reason plaintiff has filed instant suit and pray for injunction to restrain the defendants no. 1 and 2 from disturbing peaceful possession of the plaintiff over suit property and not to change the nature and character of the suit property.

Heard Ld. Advocate at length and perused materials on record. Plaintiff has filed xerox copies of the relevant documents mentioned in the firisti in support of his contention. After hearing and perusal of the document filed by the plaintiff it appears that the plaintiff has a prima facie case to go to the trial. Further the balance of convenience and inconvenience is also in favour of the plaintiff. Moreover, if the defendants are not restrained then plaintiff will suffer more injury and loss than the defendants no. 1 and 2 if they restrain.

Accordingly, it is

ORDERED

that defendants no. 1 and 2 are directed not to obstruct the pathway used by the plaintiff for his egress and ingress, not to cut down the trees from the 'ka/1' schedule suit property and not to change the nature, character of the 'ka/1' schedule suit property till next date.

Issue notice to the defendants no. 1 and 2 along with the documents mentioned in the Proviso (a) to O-39 R-3 of C.P.C. asking them to show cause within 15 days from the date of this order as to why the temporary injunction, as prayed for shall not be granted.

The plaintiff is directed to file the affidavit, as required under Proviso (b) to O-39 R-3 of C.P.C. latest by tomorrow.

To date i.e. 12-08-222 for S/R and appearance and showing cause by the defendants o. 1 and 2 in respect of the petition U/O-39 R-1&2 of C.P.C.

Dict. & Corrt. by me

Civil Judge, (Sr. Div),
Kharagpur, Paschim Medinipur

Civil Judge, (Sr. Div),
Kharagpur, Paschim Medinipur