

**Title Suit 270/2023**

**JO-WB01482**

**Order No.19 dated 06.06.2024**

Today is fixed for passing necessary order.

Both sides file hazira.

Now the record is taken up for passing order.

It is inter alia the contention of plaintiff that the plaintiff is the absolute owner and possessor of the 'Ka' schedule property and defendant is the owner of 'Kha' schedule property which is lying just southern side of 'Ka' schedule property of the plaintiff. The defendant on and from 15.05.2023 has been started to make construction in the 'Kha' schedule property by demolishing his old building for which the joint roof and pucca wall of the plaintiff's property got badly damaged. The defendant is making the construction without making any sanction plan and without leaving any statutory space. The plaintiff has requested the defendant in this respect several times. Plaintiff also has lodged a GDE against the defendant. The plaintiff further submitted that the act of the defendant is highly illegal and unauthorized. Therefore, the plaintiff has prayed for relief as per the petition.

On the other by filing w/o the defendants have raised strong objection and prayed for rejection of the injunction petition on the ground that the ka & kha schedule property was joint properties which was partition among themselves. It was also settled between the predecessor of the plaintiff and the defendants in clause 7 of partition deed that due to paucity of space the parties are not bound leave to any space, if they want to construct in future. But still the defendant has left 3 ft. and started his legal construction as per the sanctioned building plan issued by the Baidyabati Municipality.

Parties produced the documents in support of their claim. As far as the evidentiary value of documents of both sides is concerned, the same shall be properly adjudicated during trial and no any proper conclusion shall be made out without conducting the trial. Considering the same, order of maintaining status quo shall be best at this stage for the purpose of protecting the interest of both the parties.

Considering all, I find a prima-facie case of plaintiff but right now balance of convenience and inconvenience is on the part of both sides and order of restraint may create hardship upon the defendants. For this, the Court thinks that the order of status quo may be beneficial for proper adjudication of suit.

Hence, it is

**Ordered**

that both the petitions are hereby considered and allowed by making the ad-interim order no. 2 dated 18.05.2023 made absolute in the form status quo till the disposal of the suit.

Now the petition dated 06.07.2023 u/s. 151 CPC filed by the plaintiff is taken up for passing order.

By filing the said petition, the plaintiff has prayed for taking note of the incident that the defendant has violated the ad-interim order and has also prayed for keeping the petition into the record for further reference.

After perusing all materials available with the record and petition, I do not find any merit in the instant petition and the instant petition is hereby rejected.

Fix 24.06.2024 for framing of issue.

Dictated and corrected by me

Civil Judge, (Junior Division),  
2<sup>nd</sup> Court, Serampore, Hooghly

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