

T. S. 666 of 2022
CNR No. WBBD08-000845-2022

Later

Order No. 2/1

Dated 22.11.2022

Ad-interim injunction petition is moved.

Record is taken up for hearing ad-interim injunction petition.

No caveat is pending as per report of the Sheristadar.

This is a suit for declaration and injunction.

Issue notice upon the defendant to show cause within 15 days from the date of receipt of this order as to why the order of temporary injunction shall not be granted as per the prayer of the plaintiff.

The plaintiff's case in brief is that the plaintiff is the owner in respect of the suit property by virtue of a registered deed of gift being deed no. 022400786 for the year 2019 executed by her grandfather in her name and she has been possessing the suit property after recording her name in the records of the settlement office. The plaintiff has stated that the defendant has no manner of right, title, interest and possession in respect of the suit property. The plaintiff has alleged that on 16.11.2022 the defendant assemble building materials near the suit property and on 17.11.2022 the defendant with some labour came in front of the suit property and tried to dig earth for raising boundary wall as well as construction over the suit property and timely objection by the plaintiff along with her mother. The defendant was forced to stop the said illegal attempt. The plaintiff has further alleged that on 18.11.2022 the defendant came in front of the suit property with heavy J.C.B. machine and due to timely intervention of her mother along with local people the defendant failed to raise any construction. The plaintiff has contended that her mother went to the local P. S. but without any avail. Hence, the suit and contending urgency the plaintiff has prayed for an ad interim order of temporary injunction.

Plaintiffs have filed a deed of gift being no. 022400785 for the year 2019 and L.R. Khatina of Purba Maji being no. 1168 by way of firisti.

Perused the petition U/O 39 R (1) and (2) read with Section 151 of CPC supported by an Affidavit along with all other materials on record.

Considered.

On perusal of the documents filed by the plaintiff, it prima facie appears that the plaintiff is the owners in respect of the scheduled suit property and is in possession of the same. According to the plaintiff the defendant is trying to encroach the said scheduled suit property by raising boundary wall as well as construction over the suit property.

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Now, at this stage if the defendant is able to raise boundary wall as well as construction over any portion of the scheduled suit property forcibly it shall cause greater inconvenience to the plaintiff than to the defendant.

Under the discussion made hereinabove this Courts finds that the plaintiff has been able to establish a prima facie case in it's favour.

Accordingly, the balance of convenience and inconvenience is found to be tilting in favour of the plaintiff. Thus, this Court finds that there are sufficient grounds existing to show the delay may defeat the purpose of granting temporary injunction.

Hence, it is

O R D E R E D

that the prayer for ad interim relief is hereby allowed at this stage.

The defendant is hereby restrained from raising any construction over the scheduled suit property as on this day till 22.12.2022.

The plaintiff is directed to comply the provisions of order 39 Rule 3(a) and (b) CPC.

The plaintiff is directed to requisite at once.

Office is directed to issue the same.

To date.

D/C by me

C.J(J.D), Additional Court, Asansol.
J.O Code WB1331

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