

Title Suit – 521 of 2022

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19.12.2022 Parties file hazira.

Defendants 1 & 2 file W.S. and W.O. against the injunction application and also against the petition u/s- 151 of C.P.C.

The record is taken up for hearing of petition u/s 151 CPC directing the Basirhat P.S to implement the order of injunction passed in connection with this suit on 03.12.2022.

Perused the petition with written objection.

Heard both sides. Considered.

It appears that by the instant petition supported by affidavit the plaintiffs alleged that despite there being an order of status quo, the defendants 1 & 2 are trying to create boundary wall through the suit property encroaching upon the plaintiffs' property. The plaintiffs lodged a diary with the local P.S.

Although police help can not be granted on mere asking, but here as an attempt to violate the injunction order is alleged on affidavit, the Court should implement its own order in case of such attempt to violate. Whether, the defendants 1 & 2 are raising boundary wall can be determined after holding a local inspection commission thereat. But till then the order of status quo should be maintained.

Therefore, for the prevention of violation of the order passed by this Court, the petition u/s 151 is allowed on contest.

I.C, Basirhat P.S. is directed to implement the injunction order dated 03.12.2022 so that status quo is maintained in the suit property in terms of the said order.

Now, the record is taken up for hearing of the petition u/o 39 r 7 r/w section 151 of C.P.C.

Perused the petition and the W.O.

Heard, Ld. Advocate for the parties. Considered.

It appears from the record that vide order no. 1 dated 03.12.2022 plaintiffs as well as defendants 1 & 2 were directed to maintain status quo with regard to the nature, character and joint possession of the suit property. It is alleged in the petition supported by affidavit that the defendants 1 & 2 along with their antisocial men and agents by flouting the order of injunction are trying to change the nature and character of the suit property by creating boundary wall.

Hence, the present position and condition and status of the suit property is required to be brought on record by way of inspection commission. That the plaintiffs are willing to pay the requisite fees and hence pray for the commission as per schedule of the petition.

The defendants side will not be prejudiced if the picture of the actual position of the suit property by way hand sketch map, local features come before the Court. Rather, it will assist in the adjudication of the controversy/dispute.

Hence, considering the submission of the both sides' counsel and the existing ad interim injunction order and the urgency as cited in the petition, it is allowed on contest.

Hence, it is

Ordered

that the instant petition u/o 39 r 7 r/w section 151 of CPC is **allowed** on contest.

To _____ S/R and A/D and C/report.

Ld. Advocate _____ to be appointed advocate commissioner.

Plaintiffs to pay Rs. 2000/- as C. Cost and file writ. Commission to be carried out as per the schedule of the petition after serving notice to both parties.

D/C by me.

Civil Judge (Sr. Divn.)

Basirhat.

Civil Judge (Sr. Divn.)

Basirhat,

North 24 Parganas

