

TS 187/2022
CIS TS 187/2022
CNR: WBWM090002602022

Order No. 02

01.11.2022

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

The plaintiff has filed a petition under order 39, R- 1 & 2 read with Section 151 of CPC praying for ad-interim injunction.

The record is taken up for hearing the ad- interim injunction petition.

Heard Ld. Advocate for the plaintiff.

Seen the endorsement, that no caveat is pending in regard to this matter.

The brief facts of the plaintiff's case is that the suit property as mentioned under the schedule "ka" of the plaint and the petition is under Mouza- Thakurpara, J.L No.- 659, L.R Khatian No.240 L.R Plot No.184 , an area of 31 decimals out of 2.39 acres of land, L.R Khatian No.239 L.R Plot No.184 , an area of 32 decimals out of 2.39 acres of land, L.R Khatian No.238 L.R Plot No.184 , an area of 31 decimals out of 2.39 acres of land and L.R Khatian No.241 L.R Plot No.184 , an area of 31 decimals out of 2.39 acre of land with the following boundary , to the North- Bhagwat Prasari , to the south- Gurucharan Besra, to the east- Chitta Nanadi and to the west- the defendants house in plot no. 185, with the suit valued at Rs.100/-.

The suit property originally belonged to the father of the plaintiff namely one Premcharan Murmu. He obtained the property by way of patta in Settlement Case no. 16/76-77 dated 05.02.1976. the property was also duly recorded in his name in LR Khatian No. 61/1. He died during the time of his possession and the property devolved upon the plaintiff as the legal heirs. The property was duly recorded in the names of the plaintiffs respectively as per their inherited share. The principal defendants have no right, title and interest in the suit property. At present the defendants are trying to encroach the property of the plaintiffs. Then on 25.20.2022, they forcefully entered the property and threatened that they would soon start construction upon the suit property. Hence, this application.

Perused the entire case record, the holding number, bill receipts and other documents filed by the plaintiffs.

For any person, to get a relief under order 39 of CPC, it is a bounden duty upon him to prove the following three things: 1) Prima facie case in his favour 2) balance of convenience and inconvenience 3) irreparable loss and damage.

But, it is settled principle that, a good title by itself does not mean a prima facie case to grant an injunction. A prima facie case means such a cause of action which gives rise for a good case to go for a trial.

The plaintiffs have claimed to be in possession of the suit property. They have stated that they inherited the property from his father who obtained the same by way of patta and they have also furnished the patta and the LRROR in support of their assertion.

Under what colour and what title the defendants no.1 to 6 are trying to dispossess the plaintiff from the suit property, has to be seen at the time of the trial.

Prima facie the plaintiffs have the title and the possession upon the suit property. If the construction is completed it will change the aesthetics of the land and the plaintiffs will not only face inconvenience but will suffer irreparable loss.

Considering all the facts and in view of my discussion above, and considering the urgency of the matter, I am of the considered opinion that, at this interim stage an order the ad-interim petition should be allowed for the preservation of the property in its natural state.

Hence, it is

ORDERED

that the ad-interim injunction petition filed under order 39, Rule 1 & 2 read with Section 151 of C.P.C is allowed , without cost till next date.

The principal defendants no. 1 to 5 are directed not to interfere in the peaceful possession of the property by the plaintiff and not to make any kind of construction in the boundary area of the suit property till the next date.

The principal defendants no. 1 to 5 are directed to file show cause within 10 days from the date of receipt of notice as to why order of temporary injunction shall not be passed in favour of the present plaintiffs.

The plaintiffs are directed to file requisite at once after all the precautions of sanitisation due to the Covid-19 pandemic, as per the guidelines.

Let the summons be issued upon all the defendants, following all the guidelines of the Government for the Covid-19 pandemic.

Suit clerk to do the needful.

To 22.12.2022 for S.R, W.S and W.O.

D & C

Sd/-
Smt. Dewyani Rai
Civil Judge (Jr. Divn.)
JO Code: WB01175
Jhargram