

In the Court of Civil Judge(Junior Division), Raiganj, Uttar Dinajpur

Present: Devjani Bose

TS 83 of 2022

CNR. WBUD04-000271-2022

JO Code- WB01403

Order no. 02 Dated 18.07.2022

The record is taken up today by way of put up petition for hearing of the plaintiff/petitioner's petition U/O 39 rule 1 (a),(b)(c) R.W. Sec 151 CPC for ad interim injunction against def no. 1 to 3 in a suit for declaration and permanent injunction. Seen the CR and note of the Sheristadar that no caveat is pending till this date.

Now, the petition U/O 39 rule 1 (a),(b)(c) for ad interim injunction is taken up for hearing.

Heard. Considered. Perused the materials on record. Plaintiffs/petitioners' case is that one Sanatan Paul was the original owner of the suit property and the suit polot originally had 1.70 acres of land. Said Sanatan Pual during his lifetime, transferred 86 decimal of land in favor of Janardhan Paul, Bramhar Paul and Bholanath Paul and 19 decimal of land out said plot was acquired by the Government and the rest 65 decimal of land was left under the ownership of said Sanatan Paul. Said Sanatal Paul died leaving behind one wife, three sons and one daughter and each of the legal heirs received 13 decimal of land in the suit plot and said legal heirs amicably settled said inherited property in between themselves in the year 1962 and stated to possess the same and even sold out some of the portions of the suit plot. Said Daughter of Sanatan Paul namely Nirala Paul @ Nirobala Paul transferred by way of deed of gift being no. 264 dated 17.01.2013, 6 decimal of land out of 13 decimal in favor of his son who is the plaintiff herein and since then the plaintiff is possessing said gifted and demarcated land which is the suit property herein. The plaintiff is also paying Khajna as well. These defendants have not purchased any portion of land from Nirala Paul @ Nirobala Paul or from the plaintiff but all of a sudden recorded the suit property in their name in conspiracy with the plaintiff no. 4 and 5, against which the plaintiff has filed one appeal being no. 87/A/2019 before DL and LRO, Uttar Dinajpur which is lying pending.

The plaintiffs alleged that now these defendant no. 1 to 3, by virtue of the wrong record, are trying to grab the suit property and also trying to dispossess the plaintiff and disclosed that they shall sell out suit property by virtue of LR record standing in their name.

In order to substantiate, plaintiff's case, plaintiff has filed by first the RSROR being no. 51 of Mouza Nirjatpur which reveals that 1.70 acre of land Dola land in plot no. 63 belonged to Sanatan Paul in its entirety (16 ANA). Plaintiff also filed the registered Deed of Gift being no. 264 of 2013 which transpires that said Nirala Paul transferred the suit property in favor of the plaintiff. Moreover, plaintiffs another document that is certified copy of LR ROR dated 28.08.2014 being no. 1129 of Mouza Mirjapur shows that the suit property was thereby recorded in the name of the plaintiff and the Khajna Dakhila being no. 5331524 shows that the plaintiff is paying rent in respect of the suit property. The certified copy of plot information dated 17.07.2015 also transpires that the suit property was recorded in the name of the plaintiff. But the subsequent certified copy of plot information dated 01.08.2017 of the plot no. RS, LR 63 of Mouza Mirajapur shows that there is no land recorded in the name of the plaintiff.

Plaintiff alleged that these defendants no. 1 to 3 conclusively by way of malpractice succeeded in mutating the suit property in their name in LR ROR no. 695 which appears to be true as the certified copy plot information dated 17.07.2015 and 01.08.2017 transpires and as such, plaintiff's prima facie case appears to have established.

Plaintiff further filed a copy of complaint before I/C Itahar PS dated 08.07.2022 for perusal of this Court. Hence, considering the entire case record, this Court is of the opinion that balance of convenience and inconvenience and urgency favors the plaintiffs and the matter needs urgent intervention by the Court and otherwise, if the plaintiff is being dispossessed, that would cause irreparable loss and injury to the plaintiff and shall result in multiplicity of proceeding which this Court is not inclined to permit. As such,

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considering all aspects, this Court is inclined to allow the prayer of the plaintiff with the following order.

Accordingly, it is,

ORDERED

That the prayer for ad interim injunction is considered and allowed.

The defendant no. 1,2 and 3 are hereby restrained from transferring or parting with or creating any interest in favor of any stranger upon the suit property and are further restrained from changing the nature and character and possession of the suit property till the next date fixed.

Issue notice upon the defendants no 1, 2 and 3 calling upon them to show cause within 10 days from the date of receipt of such notice as to why the plaintiff's prayer for an order of temporary injunction shall not be allowed.

Plaintiff to comply with the provision u/O 39 r 3 (a, b) as per law.

Plaintiff put in requisite at once to serve summons upon defendants.

D/A to issue the same after verification.

Todate (19.11.2022) for S/R and A/D.

D/C by me.

CJ

CJ