

Order No. 03

Dated 11.04.23

The record is put up by petition filed by the appellant for hearing the prayer for temporary injunction u/s 94(c) CPC read with section 151 CPC.

Plaintiff also files xerox copies of 4 deeds under a firisti.

Heard the Id counsel who submits that the plaintiff and the defendants have purchased specific piece of lands by virtue of registered deeds with specific demarcation of annexed map. The A schedule is the purchased property of the plaintiff / appellant and the B schedule is the purchased property of the defendants / respondents.

It is contended by the Id counsel that initially, ad interim exparte injunction order was granted by the Id Civil Judge (Jr.Divn), Additional Court, Bankura, in T.S. No. 164/2019 but on 13.03.2023 the said order was vacated.

Feeling aggrieved, the plaintiff/ appellant has filed this appeal u/o 43 rule 1(r) CPC along with a prayer for temporary injunction. It is contended that unless an injunction order is passed, the defendants would raise construction encroaching upon lands of the plaintiff.

Having perused the materials available on record, I am of the view that there is a prima facie case in favour of the appellant and there is every likelihood of the suit property being damaged by encroachment and raising permanent construction by the defendants/ respondents. Hence, I think that the purpose of justice will be sub-served if an order is passed to preserve the suit property in its present status pending hearing of the application u/s 94(c) read with section 151 CPC on merit.

Accordingly, the parties to the appeal are directed to maintain status quo with respect to the nature and character of the suit land till disposal of the petition u/s 94(c) read with section 151 CPC.

Issue notice upon the respondents to show cause within 15 days from the date of communication of this order as to why the prayer for injunction of the appellant shall not be allowed or made absolute till the disposal of the appeal in terms of their petition u/s 94(c) read with section 151 CPC.

The appellant is to comply with the provision of order 39 rule 3(a) and (b) CPC.

Issue notice upon the respondent calling upon them to file rejoinder against memo of appeal, if any, within the next date fixed.

To date (27.06.23) for S/R and appearance.

Dictated & corrected