

T.S. No. 47 /2020 (CIS Reg. No.50/2020)

**CNR No. WBBK070001362020
Sri Sandip Kr. Kundu (WB00988)**

**Order no. 2
Dated 29.01.2021**

Record is put up before me as per put up petition filed by plaintiff.

Plaintiff files an application to move temporary injunction petition dated 19.12.2020 in ad-interim form. The prayer is considered and for the interest of justice it is allowed.

Heard Ld. Counsel for plaintiff.

Perused the petition and the documents relied on by plaintiff.

Issue notice upon principal defendant nos. 1 to 7 to show cause within 30 days from the date of receipt of notice as to why the prayer for temporary injunction shall not be granted as prayed for by plaintiff.

The brief fact of the case of plaintiff is that on the strength of registered deed being no. 3785 for the year 1989 and on demise of father of plaintiff and thereafter, as per mutual partition among plaintiff and proforma defendant nos. 8 to 10, plaintiff got Ka schedule property comprising of plot no. 999 having area of 18 decimals out of total area of 29 decimals and has started to possess the said portion exercising right, title and interest thereon. It is stated by plaintiff that about five years ago, i.e., in the year 1422 B.S., principal defendants dispossessed plaintiff from Ga schedule property being part of Ka schedule property having an area of 2 decimals. It is further stated by plaintiff that principal defendants threatened plaintiff openly to take forceful possession of Kha schedule property being part of Ka schedule property on 30th Kartick, 1427 B.S. As a result, cloud is cast on the right, title, interest and possession in respect of said Kha schedule property of plaintiff. Thus, by filing this application plaintiff has prayed for passing an order of temporary injunction against Principal defendant nos. 1 to 7 restraining them from unlawful and illegal dispossession of plaintiff from Kha schedule property being part of Ka schedule property and disturbing peaceful possession of plaintiff thereat.

Plaintiff submitted photocopies of said deed no. 3785 for the year 1989, Advocates' Letter dated 21.10.2020 along with seven postal receipts and seven A/D cards and LRROR of khatian nos. 819/1, 1201/1, 354/2 and 884/1 stood in the names of plaintiff and proforma defendant nos. 8 to 10. Documents of plaintiff go to show that plaintiff has share in the Ka schedule property and has good prima-facie case to prefer this application before the court of law. In this case, principal defendants are strangers

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to the suit property. Plaintiff alleged that principal defendants have threatened to dispossess plaintiff from Kha schedule property being part of Ka schedule property. As per contention of plaintiff, the said threat was shown on 30th Kartick, 1427 B.S., corresponding to English calender dated 30th October, 2020. Further, record goes to show plaintiff filed this application for getting interim relief as per prayer of petition for protecting his property from the said threat of principal defendants on 19.12.2020 and plaintiff has preferred to move the said application in ad-interim form on this date, i.e., on 29.01.2021. Therefore, conduct of plaintiff goes to show that plaintiff has no urgency in this matter. If plaintiff felt danger from the alleged threat of principal defendants which was shown by them long back in the month of September, 2020, then definitely plaintiff would have come at early stage. Not only that at the time of moving this application, Ld. Counsel for plaintiff has not shown any development regarding alleged threat by principal defendants for taking forceful possession of Kha schedule property since filing of this application before this court. This being the position, this court finds lack of extreme urgency in the matter for which prayer for plaintiff can be allowed in ad-interim form. Therefore, principal defendants are required to be heard before passing any order of temporary injunction against them.

So, I am not inclined to allow the prayer of plaintiff in ad-interim form at this stage. Hence, it is,

Ordered

that the prayer of plaintiff for passing an ad-interim order of temporary injunction against principal defendant nos. 1 to 7 is refused.

Plaintiff to file requisite at once.

Todate.

Dictated and corrected by me

Sd/- S. K. Kundu

Civil Judge (Sr. Divn.),
Bishnupur.

Sd/- S. K. Kundu

Civil Judge (Sr. Divn.)
Bishnupur.