

Title Suit No. 52 of 2025
CIS No. 52 of 2025
CNR No. WBBK07-000083-2025
Present : Sri Tanumoy Karmakar (J.O. Code: WB01209)

Order no. 02
Dated 22-04-2025

Record is put up today on the strength of a put up petition filed by the plaintiffs.

The petition is considered and allowed.

Record is taken up for hearing.

An application has been filed by the plaintiffs under Order 39 Rule 1 & 2 of CPC.

The crux of the plaintiffs' case is that one Gopal Ch. Chatterjee, being the co-sharer of the schedule property had transferred 50 decimal from his share in favour of Uttam Majhi, being plaintiff no.1 by dint of one deed bearing no.I-3575 for the year 2019 and on the same day said Gopal Ch. Chatterjee had also transferred 50 decimal from his share in favour of Naren Majhi, being plaintiff no.2 by dint of a kobala deed bearing no.3574 for the year 2019. Thereafter, plaintiff no.1 & 2 duly mutated their name as co-sharer in respect of the suit property. It has been further alleged that Mithun Chakraborty and Anup Chakraborty, being the co-sharer of the schedule property jointly transferred their share in favour of plaintiff no.3 & 4 by dint of a kobala deed bearing no.846 in the year of 2025. It has been more alleged that Gopal Ch. Chatterjee again transferred 16 decimal of land from his share in favour of the defendant no.1 and now said defendant no.1 started to create disturbance in peaceful possession of the plaintiffs over the suit property. Defendant no.1 also trying to change the nature and character of the suit property by making unauthorized construction over the cream portion of the suit property.

Plaintiffs also alleged that on several occasion they requested defendants for partition of the suit property amicably, but defendants flatly refused the same.

Now, plaintiffs have prayed for an order of injunction restraining the defendant no.1 from changing the nature and character of the suit property and from restraining them from creating disturbance in respect of peaceful possession of the plaintiffs over the suit property.

As per the departmental report no caveat is pending on the said property with regard to the said dispute.

Ld. Counsel for the plaintiffs in the course of his submission filed original deeds by which the plaintiffs became the co-sharers in respect of the schedule property. Plaintiffs also filed copy of certified copies of L.R. R-o-R which reflects that plaintiffs are the co-sharers in respect of the said property.

So, plaintiffs are quite able to prove a *prima facie* case in their favour. The balance of convenience and inconvenience also tilts in favour of the plaintiffs on the basis of the documents filed by them. Since, the suit property is not partitioned by metes and bounds, the plaintiffs will suffer irreparable loss and injuries if the nature and character of any portion of the suit property has been changed by the act of the defendants prior to partition.

Accordingly, I find that some protection can be given to the plaintiffs at this juncture.

Hence, it is,

ORDERED

that the prayer for ad interim order on application under Order 39 Rule 1 & 2 of CPC preferred by the plaintiffs be and the same is granted as ad-interim measure but in part.

Defendant no.1, his men, agents and associates are hereby restrained from changing the nature and character of the suit property in any manner whatsoever upto the next date. However, in the meantime both parties are directed to maintain '*status quo*' in regard to their respective possession over the suit property upto the next date.

Defendant no.1 is hereby directed to show-cause within 30 days from the date of receipt of notice as to why the relief claimed in the said application shall not be granted.

Issue notice accordingly.

Plaintiffs are hereby directed to file the requisites forthwith.

Plaintiffs are also directed to comply Rule 3(a) & 3 (b) of Order 39 forthwith within 24 hours.

To date (05-06-2025) for awaiting SR of summons/notice and appearance of the defendants.

Update CIS forthwith.

Dictated & Corrected by me.

Civil Judge (Sr. Divn.), Bishnupur

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