

Title Suit No. 44 of 2025

CIS No. 44 of 2025

CNR No. WBBK07-000071-2025

Present : Sri Tanumoy Karmakar (J.O. Code: WB01209)

Order no. 03

Dated 21-04-2025

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

Petition is considered and allowed.

Ld. Counsel for the plaintiffs intends to move the application under Order 39 Rule 1 & 2 of CPC.

Now the case record is taken up for hearing.

Heard Ld. Counsels for the plaintiffs.

The case record is taken up for passing necessary order.

The crux of the plaintiffs' case is that the second part of schedule property was originally belonged to one Sanatan Ruidas @ Muchi and he was the predecessor-in-interest of the plaintiffs and defendants. The first part of the schedule property was owned by one Swapan Kr. Das and he transferred the part of the schedule property in favour of said Sanatan Ruidas by dint of a registered gift deed bearing no.I-4542 in the year of 1987. It has been further alleged that Sanatan Ruidas had expired leaving behind his wife, three sons and two daughters as his legal heirs and successors. It has been more alleged that the plaintiffs and the defendants are possessing the suit property as ejmal and the property has not been partitioned between them by metes and bounds. It has been again averred that on several occasions plaintiffs requested the defendants to make amicable partition of the suit property amongst them, but defendants flatly refused the same. Now, the defendants are trying to oust the plaintiffs from the suit property to grab the share of the plaintiffs.

So, plaintiffs have prayed for an order of injunction restraining the defendants from causing any hindrance in matter of peaceful enjoyment and possession of the plaintiff over the schedule property and further prayed restraining the defendants from alienating the valuable portion of the schedule property in favour of any third party.

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

Ld. Counsel in the course of his submission, has produced the original copy of deed by which said Sanatan Ruidas became the co-sharer of the second part of the schedule property. Plaintiffs also produced the R.S. R-o-R and it reflects that the predecessor-in-interest of the plaintiffs and defendants was the owner of first part of the schedule property. In support to their plaintiffs also filed legal heir certificate of deceased Sanatan Ruidas issued by Sahaspur Gram Panchayet. Plaintiffs also filed certified copy of L.R. R-o-R and it reflects that the plaintiffs and the defendants are the co-sharer of the suit property.

Plaintiffs is quite able to prove a *prima facie* case in their favour because all the documents do not reflect the fact of partition between the parties to the suit. The balance of convenience and inconvenience also tilts in favour of the plaintiffs on the basis of the documents filed by them. Since, the property is not partitioned by metes and bounds, the plaintiffs will suffer irreparable loss and injuries if any valuable portion of the suit property has been transferred to any third party and it will give birth of multiplicity of suits.

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. Defendants, their men, agents and associates are hereby restrained from alienating the schedule property or any portion thereof till next date. They are also hereby restrained from disturbing the plaintiffs in any manner whatsoever in respect of the peaceful possession of the plaintiffs over the schedule property till the next date.

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

To date (17-05-2025) for awaiting SR of summons/notice and appearance of the defendants.

Update CIS forthwith.

Dictated & Corrected by me.