

T.S. 25/18

Order No. 10, dated 13.12.18

Record is placed before me for disposing temporary injunction application of plaintiffs dated 18.04.18 and application filed by defendant nos. 1 and 2 under order 39 rule 4 CPC on 12.12.18.

Plaintiffs by filing the said application has stated that both plaintiffs and defendants are co sharers of the suit property and have been possessing the same in ejmal. Defendant nos. 1 and 2 are trying to make construction of room/house forcibly by encroaching the vacant land and also by installing submersible pump thereat and in this way defendants are trying to change the nature and character of the undivided property. Thus, plaintiffs have prayed for passing temporary injunction order against defendant nos. 1 and 2 so that they may be restrained from making any illegal construction causing obstruction to plaintiffs in enjoying the suit property during the pendency of this suit.

On the other hand, defendants by filing WO on 12.12.18 strongly denied and disputed the allegations made by plaintiffs in the application and prayed for rejection of the petition. In addition to that, by filing another application under the provision of order 39 rule 4 CPC defendant nos. 1 and 2 have prayed for varying/setting aside the ex parte order of injunction stating that suppressing material facts plaintiffs obtained the said order of ad interim temporary injunction.

I have carefully perused the petitions under disposal, WO, documents in the case record and other material therein. It is pertinent to mention that this court after being satisfied by all the essential ingredients passed an order of ad interim temporary injunction when plaintiffs moved the temporary injunction application in ad interim form and this court directed both the parties to maintain status quo in the suit property by way of not changing the nature and character and possession of the suit property and the said order is still in force. At the time of hearing defendant nos. 1 and 2 have made out no better case for which said ad interim temporary injunction order can be modified and or set aside. This court observed that both parties are in possession of the suit property. Thus, it is quite obvious that if defendant nos. 1 and 2 make any unauthorized construction in the undivided suit property on the vacant land as alleged by plaintiffs, then plaintiffs' bonafide right will be prejudiced certainly. Considering all, I am of the opinion that ad interim order of injunction passed by this court on 18.04.18 should be made absolute till the disposal of this suit.

Hence, it is,

ordered

that temporary injunction application filed by plaintiffs on 18.04.18 is considered and allowed on contest against defendant nos. 1 and 2, but without costs.

The ad interim order of injunction passed by this court on 18.04.18 directing both parties to maintain status quo in the suit property by way of not changing the nature and character and possession thereat is hereby made absolute till the disposal of this suit.

In view of the above observation, application filed by defendant nos. 1 and 2 under order 39 rule 4 CPC has lost its strength and it is liable to be rejected.

Hence, it is,

ordered

that the application filed by defendant nos. 1 and 2 under order 39 rule 4 CPC on 12.12.18 is considered and rejected on contest, but without costs.

Todate.

Dictated and Corrected by me

Civil Judge (Sr. Divn.), Bishnupur.

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