

**Title Suit No. 23 of 2022**  
*CIS No. 23 of 2022*  
*CNR No. WBBK07-000108-2022*  
*Present : Sri Tanumoy Karmakar (J.O. Code: WB01209)*

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**Order no. 23**  
*Dated 21-03-2025*

Today is fixed for hearing injunction petition filed under Order 39 Rule 1 & 2 of the CPC and steps upon defendant no.3 to 7, 9 and 13 to 15.

Memorandum of appearance filed by the plaintiff and defendant no. 10 to 12.

Ld. Counsel on behalf of the plaintiff filed one adjournment application with a prayer for time for filing requisites in respect of defendant no. 3 to 7, 9 and 13 to 15.

The prayer is considered and allowed as a last chance.

Accordingly, plaintiff is strictly directed to take fresh steps in respect of defendant no.3 to 7, 9 and 13 to 15 in the meantime.

It is also apposite to mention here that summons upon defendant no. 1, 2 & 8 were received after due service on 09-11-2022, but they did not turn up yet in this suit.

Accordingly, the instant suit shall be proceeded as ex parte against defendant no.1, 2 & 8.

Heard Ld. Counsels for both sides at length in regard to the injunction application.

Perused the injunction application and W.O.

Now, the case record is taken up for passing necessary order.

The brief facts of the plaintiff's case is that the plaintiff has instituted this suit against defendant no.1 to 15 praying declaration and partition by metes and bounds to the effect of declaration of 1234 sq. ft. area in the 'Ka' schedule property. Defendant no.1 to 15 have owned and possessed the rest 3998 sq. ft. area in respect of the 'Ka' schedule property with the plaintiff jointly and amicably without being partitioned as per provisions of law. Now, defendant no.10, 11 and 12 are going to dispossess the plaintiff from his share by way of trying to make illegal construction on the valuable portion of the undivided 'Ka' schedule property by collecting brick, sand and cement, i.e., raw materials of construction with the help of other defendants as well as the defendant no.10, 11 and 12. Defendant no.10, 11 and 12 are also going to sell out the valuable portion of the undivided 'Ka' schedule property to the strangers without making it partition as per provisions of law.

On the other hand, Ld. Counsel for defendant no.10 to 12 filed written objection. Defendant no.10 to 12 denied and disputed all the material allegations as alleged by the plaintiff except the matter of records. Defendants categorically accepted that plaintiff has share in respect of the 'Ka' schedule property. It has been further accepted by the defendants that plaintiff is residing along with his family members by making a pukka residential building comprising more or less 1190 sq. ft. out of 1234 sq. ft.

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During course of submission Ld. Counsel for the plaintiff showed the documents filed by them in *firisty*. Plaintiff also filed copy of deed by which the plaintiff became the right, title and interest holder in respect of an area of 1234 sq. ft. over the suit property. It is also pertinent to mention here that there is no dispute between the parties regarding the co-ownership in respect of the 'Ka' schedule property.

On perusal of application, materials on record and documents filed by plaintiff apparently it appears that plaintiff and defendants are co-owners in the suit property. There is jointness of title of the plaintiff and defendants. The property is not partitioned in metes and bounds as accepted by the defendants. There are triable issues which makes a *prima facie* case in favour of plaintiff. In view of the allegations raised by plaintiff, I am of considered opinion that the balance of convenience and inconvenience is tilted in favour of plaintiff. In this context it is also pertinent to mention here that if defendants manages to change the nature and character of the unpartitioned vacant land of the suit property, then plaintiff will suffer irreparable loss of injury. Considering the nature of dispute and to avoid future complications which may give rise to multiplicity of proceeding, I am inclined to grant an order of injunction.

Hence, it is,

**ORDERED,**

that injunction application preferred by the plaintiff under Order 39 Rule 1 & 2 of the CPC is allowed on contest without any order as to costs.

Accordingly, defendant no.10 to 12, their men, agents and associates are hereby restrained from alienating the suit property or any portion thereof to any third person till the disposal of the suit. They are also hereby restrained from changing the nature and character over the vacant land lying over the 'Ka' schedule property till the disposal of the suit.

Fix **22-07-2025** for SR in respect of defendant no.3 to 7, 9 and 13 to 15.

Suggestive issues, if any, in the meantime.

Update CIS forthwith.

*Dictated & Corrected by me.*

*Civil Judge (Sr. Divn.), Bishnupur*

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