

Title Suit No. 78 of 2025

CIS No. 78 of 2025

CNR No. WBBK07-000137-2025

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

Contd. Order no. 01

Dated 17-06-2025

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. Counsel for the plaintiffs.

The case record is taken up for passing necessary order.

The crux of the plaintiffs' case is that all schedule properties ('A' schedule property to 'E' schedule property) were originally belonged to one Ramgati Pal, the grandfather of the plaintiffs. Thereafter, he had expired leaving behind his five legal heirs and they have inherited the share of Ramgati Pal in respect of the suit properties. It has been further averred that one of the daughters and one son of said Ramgati Pal, namely, Shila Pal Sarkar and Shatadal Pal respectively had also expired leaving behind their legal heirs and successors who are defendants herein. It has been more alleged that the plaintiffs and the defendants are the co-sharers in respect of all the schedule properties. Thereafter, plaintiffs have several times requested the defendants for amicable partition of the suit properties among them, but defendants flatly refused for partition of the suit properties without any reasonable cause.

Now, the defendant no.1 to 11 have been trying to transfer cream portion of the suit properties to third parties prior to partition.

So, plaintiffs have prayed for an order of injunction restraining the defendant no.1 to 11 from restraining the defendant no.1 to 11 from creating any third party interest in respect of the all schedule properties.

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, has produced death certificate of Ramgati Pal, legal heir certificate of Ramgati Pal and Shankar Ch. Pal. Ld. Counsel on behalf plaintiffs also filed R.S. R-o-R in the name of Ramgati Pal. Plaintiffs also filed original searching slips which reflect the name of the plaintiffs and defendants as co-sharers of the schedule properties.

Accordingly, plaintiffs are 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 properties are not partitioned by metes and bounds, the plaintiffs will suffer irreparable loss and injuries if the defendant no.1 to 11 have managed to transfer or alienate the cream portion of the suit properties to any third party.

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.

Defendant no.1 to 11, their men, agents and associates are hereby restrained from alienating any portion of the suit properties till the next date. However, in the meantime all parties are directed to maintain status quo in regard to their respective possession over the schedule properties till the next date.

Defendant no.1 to 11 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 also hereby directed to comply Rule 3(a) & 3 (b) of Order 39 forthwith within 24 hours.

To date (**01-08-2025**) for awaiting SR of summons/notice and appearance of the defendants.

Update CIS forthwith.

Dictated & Corrected by me.