

In the Court of Civil Judge (Senior Division), Bishnupur

**Title Suit No. 50 of 2023**

CIS No. 50 of 2023

CNR No. WBBK07-000138-2023

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

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**Order no. 10**

Dated 08-01-2025

Today is fixed for hearing temporary injunction application.

Memorandum of appearance filed by the plaintiffs and defendant no.1.

At the very outset of this order it is pertinent to mention here that the instant suit was fixed on 27-01-2025 for injunction hearing, but the record was subsequently pre-poned by prayer of plaintiffs and accordingly direction was given to the plaintiffs for filing affidavit-of-service to this effect.

Ld. Counsel for the plaintiffs filed affidavit-of-service and the same is kept with the record.

The case record is taken up for hearing the temporary injunction application.

Heard Ld. Counsels for both sides at length.

Perused the temporary injunction application as well as W.O. filed by defendant no.1.

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

The brief facts of the plaintiffs' case is that plaintiffs became the owner of the suit property by virtue of registered deeds bearing no. 010106305 of 2021 and no. 1661 dated 09-12-2005. And accordingly, plaintiffs became the co-sharer of the suit property. It has been further alleged that the plaintiffs on several occasions requested the defendants for amicable partition of the suit property amongst them, but defendant no.1 flatly denied for the same. So, finding no other ways, plaintiffs instituted this suit. Now defendant no.1 is raising illegal construction over the suit plot without partitioning the suit property to enjoy the cream portion of the suit property. So, plaintiffs have prayed to restrain the defendant no.1 from raising any illegal construction over the suit property.

Defendant no.1 appeared in this suit and filed written objection. The fact of the defendant no.1 is that plaintiffs have no right, title and interest over the suit schedule property. It has been further alleged by defendant no.1 that plaintiff no.2 on the basis of a false and fake registered deed being no.545 dated 15-06-1981 fabricated false evidence, by which his name was recorded in the L.R. R-o-R.

It is pertinent to mention here that at the time of considering the temporary injunction application I have to consider only the *prima facie* case and whether the plaintiffs have any proper share or not over the suit property shall be determined during the course of trial of the suit.

During course of submission, plaintiffs have relied on documents, i.e., registered deeds, L.R. R-o-R and these documents have been filed by plaintiffs by way of *firstly*. Documents give clear inference that plaintiffs are the co-sharers of the suit property and

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have good *prima facie* case to prefer this application before this court having right, title, interest and possession in the suit property.

In this context, it is pertinent to mention here that defendant No.1 did not whisper regarding oral or documentary partition of the suit property. Even the alleged deed which defendant claimed as a fake has not been challenged yet after 1981. There are triable issues which makes a *prima facie* case in favour of plaintiffs. The balance of convenience or inconvenience also tilts in favour of the plaintiffs on the basis of the series of deeds and records. The plaintiffs will also suffer irreparable loss and injury, if any construction was done by the defendant no.1 prior to the partition of the suit property. 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 because all basic principles tilts in favour of the plaintiff.

Hence, it is,

**ORDERED.**

that injunction application preferred by the plaintiffs under Order 39 Rule 1 & 2 of the CPC read with Section 151 of the CPC is allowed on contest without any order as to costs.

Accordingly, defendant no.1, his men, agents and associates are hereby restrained from changing the nature and character of the suit property or any portion thereof in any manner whatsoever till the disposal of the suit. Both parties are also directed to maintain '*status quo*' in regard to their respective possession over the suit property till the disposal of the suit.

Fix todate (27-01-2025) for framing of issues.

Suggestive issues, if any, in the meantime.

Update CIS forthwith.

*Dictated & Corrected by me.*

Civil Judge (Sr. Divn.), Bishnupur

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