

Title Suit 1188 of 2018

Present: Ajay Kumar Gupta

Order No. 07 / dt. 21.01.2019

Both parties file their respective haziras. Today is date is fixed for hearing injunction application filed U/O 39 Rule 1 & 2 read with section 151 of the C.P.C praying therein for passing temporary injunction restraining the defendant no. 1 to 5 and their men, agents and associates not to change the nature and character and not to create any third party interest in respect of the schedule property more fully described in the schedule of the application.

Plaintiff's case is in brief is that the plaintiff and defendants are the co-owners and co-sharers of suit property and they are in joint possession of the said suit property. Plaintiff requested the defendant to partition the suit property by metes and bounds according to their respective shares but the defendants always refused the same. Defendants are also trying to make construction towards the "B" schedule property and also trying to create third party interest in respect of the property and / or properties for their illegal gain. As such the plaintiff file the instant suit praying for declaration, partition and and permanent injunction against the defendants. At the same time plaintiffs file an application U/O 39 Rule 1 & 2 read with section 151 of the C.P.C praying temporary injunction together with order ad-interim injunction in terms of the prayer made in the application. Plaintiffs also file documents to support their contention. On the other hand defendants file the W.O to this application and denied and disputed the all materials contentions of the plaintiffs. However, defendants did not deny that the plaintiffs are not a co-owner.

Having heard the submission of both parties and upon perusal of the petition for temporary injunction along with copies of documents annexed thereto. This court find a prima facie case and balance of convenience and inconvenience is also in favour of the plaintiffs. Hence, prayer for temporary injunction is allowed at this stage in the form of status-quo.

Hence, it is

Ordered

That the petition under Order 39 Rule 1 & 2 read with Section 151 CPC is allowed on contest without costs to the extent that both the parties are directed to maintain status quo as regards, to the nature, character and possession of both parties of the suit premises as of today till disposal of the suit.

To for framing of issues.

Dictated and corrected by me

Judge, Bench-II
City Civil Court, Calcutta

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