

T.S.- 13/2019, Regd. No.- 13/2019

Order no. 16

Date: 20.02.2020

Today is fixed for hearing of temporary injunction application on contest against the Defendants.

Ld. Advocate on behalf of the Plaintiff is present by filing Hazira.

Ld. Advocate on behalf of the Defendant no.2 is present by filing Hazira.

The suit was fixed for ex-parte against the Defendant no. 1 vide order no. 03 dated- 18-02-2019.

Defendant no.2 filed their written statement and written objection on 18-06-2019.

Plaintiff files an extension application which is misconceived and rejected.

Now, the record is taken up for hearing of the temporary injunction application on contest against the Defendants under Order XXXIX Rule 1 (a)(b)(c) read with section 151 of the Code of Civil Procedure.

Heard the Ld. Adv. for the Plaintiff. Perused the plaint, and application for temporary injunction under Order XXXIX Rule 1 (a)(b)(c) read with section 151 of the Code of Civil Procedure and W/O and other materials available in the record. Considered.

This is a suit for declaration, permanent injunction and consequential reliefs.

The fact of the case in short is that Plaintiff stated that he has a valid right, title, interest and possession over the schedule mentioned property. Plaintiff further stated that the Defendants are creating disturbance to the peaceful possession of the Plaintiff without having any right, title and possession. For this reason, the Plaintiff filed the instant suit along with a prayer for permanent injunction against the Defendants for restraining them to enter into and interfere with the peaceful possession of the Plaintiff over the schedule mentioned property.

Plaintiff filed some documents in support of their contentions.

The Defendant no. 2 filed a written objection against this application by which he has denied and disputed each and every allegation made by the Plaintiff in the instant injunction application. Moreover, he stated that he is in possession over the schedule mentioned property and also, he has a valid, right and interest over the same and also stated that his name has been recorded in the ROR and denied the right, interest and possession of the Plaintiff. Therefore, he prayed for rejection of the prayer of injunction of the Plaintiff.

The Defendant no.2 also filed some documents in support of their averments by firisti.

On perusal of the case record of this case and in view of the submission of the Ld. Advocates on behalf of the both sides as well as the discussion made above, I find

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that there is a huge dispute/collusion between the parties regarding the title and possession of the same. Both parties claimed that they are in possession of the suit property. Plaintiff produced the ROR in the name of the previous owner i.e. from whom he has purchased the suit property and Defendant no. 2 produced ROR in his name. But none of the parties has been able to give the clear picture of possession of the suit property. Further, I find that the dispute between the parties is of such a nature which can only be resolved after considering the evidence produced by both sides. It further appears that Plaintiff has a good prima-facie case to go into the trial and if the nature and character of the suit property is changed during the course of the trial of the suit some difficulties may arise later on and protection and preservation of the suit property during the pendency of the suit is necessary.

Considering the facts and circumstance of the present suit, I am of the view that a status quo would be proper and befitting order at present directing both sides to maintain the nature, character and possession of the suit property without any change till the disposal of the suit.

Hence, it is,

ORDERED

that the injunction application U/Order XXXIX Rule 1 (a)(b)(c) of CPC with section 151 of CPC is considered and the same is hereby allowed on contest in the form of status quo without any order of costs.

That both the parties are directed to maintain status quo in respect of the nature, character and possession of the suit land and not to change its nature, character and possession till the disposal of the suit.

Fix 16/06/2020 framing of issues.

T/P by me

Civil Judge (Jr. Div.)
Gangarampur at Buniadpur
Dakshin Dinajpur
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