

In the Court of Civil Judge (Jr. Divn.) Gangarampur at Buniadpur

Present: Shri Shahid Parvez

Civil Judge (Jr. Divn.)

J.O. Code: WB01233

T.S 64 of 2023, Regd. No.- 64 of 2023

CNR No. WBDD07-000143-20232

Order No. 13

Dated-28-02-2024.

Today is fixed for passing of order.

Plaintiff and defendant Nos. 1 to 6 files hazira. Ld. Advocates of the said parties are present.

Defendant Nos. 6 and 7 filed a petition to vacate the order of expart against them which is considered and allowed without any order as to costs. The said defendants also filed W.S. Copy served. Let it be kept with the record.

Accordingly, the record is taken up.

Plaintiffs by filing the instant petition u/O 39 Rule 1 (a) (b) (c) read with section 151 of the CPC submitted that Sarffuddin Ahamed got the patta on 06-04-1983 vide patta Case No. 21/XII/B/83 and his name was duly recorded on LR Khatian who expired leaving behind the plaintiffs who inherited the suit property. Principal defendants on 12-05-2023 have disturbed the peaceful possessions of the plaintiffs over the suit property, hence the suit with a prayer for passing temporary injunction against defendants under the instant petition in hand u/O 39 Rule 1 (a) (b) (c) read with section 151 of the CPC.

Ld Adv of the defendant Nos. 1 to 5 submitted that Zamiruddin Sarkar vide sale deed NO. 857 of 1956 purchased 6 decimals of suit property over plot No. 156 under Mauza Karanjabari, Harirampur together with other properties and got the possession of the same and he died leaving behind his only son Sukur Rahaman who got the suit properties and other properties by way of inheritance and his name has been recorded in LR attested Khatian and also the finally published LR Khatian No. 237 in the year 2009 vide registered gift deed No. 5643 Sukur Rahaman transferred all his properties in favour of his son (defendant No.1) and daughters. Defendant No.1 got the suit property by way of gift deed and he mutated his name vide LR Khatian NO. 890.

Plaintiff has not title and possession over the suit property and entire 6 decimals of suit property belongs to defendant no.1 and the same was never vested in the name of government of W.B. Sarffuddin Ahamed never got suit property by way of patta case No. 21/XII/B/83 dated 06-04-1983. In the first week of May 2023 defendant No.1 filed an application in the office of BL&LRO Harirampur for correction of erroneous record of right but before that the plaintiffs have filed the suit and got the order of ad-interim injunction over the suit property. Defendant No.1 again filed application dated 25-08-2023 in the office of BL&LRO, Harirampur after receipt of summons of the suit, asking the said authority to inform whether patta case No. 21/XII/B/83 dated 06-04-1983 has been issued in the name of Sarffuddin Ahamed. The BL&LRO, Harirampur vide Memo No. 823/BL&LRO/HRP/2023 dated 21-09-2023 supplied the information from which is appears that the suit plot was never vested in the name of West Bengal and hence the question of settlement of patta in favour of Sarffuddin Ahamad does not arise. The Ld Adv of defendants prayed for rejection of the injunction petition.

The court finds that the plaintiffs have filed the photocopy of patta dated 06-04-1983 which stand in the name of Sarffuddin Ahamed to the extent of 6 decimals over plot No. 156 but the name of the village, Daulatpur has been strike off and the name of Karanjabari has been mentioned therein which is the suit Mauza. Though on the back side of the patta Karanjabari has been mentioned. There is anomaly with regard to the name of Mauza in the patta. The plaintiffs have filed the photocopy of LR Khatian NO. 511 which stands in the name of Sarffuddin Ahamed in respect of 6 decimals of suit property by way of patta. On the other hand the name of defendant No.1 also appears in respect of 6

decimals of suit property vide LR Khatian NO. 890 dated 17-11-2019 and the court finds that the name of plaintiffs have also been recorded in respect of suit property to the extent of 1 decimals each vide LR Khatian Nos. 524 to 530.

The court finds from the RTI reply of the SPIO and BL&LRO Harirampur dated 21-09-2023, addressed to the defendant No.1 that the suit plot No. 156 does not appear to be vested to the State and Khatian Nos. 524 to 530 were not found in scanned mother LR record of right. Since the court find prima facie anomaly in patta and the concerned authority of the BL&LRO Harirampur has denied that the suit plot was vested one so the court holds that prima facie the plaintiffs have not case and they are at liberty to prove their case through cogent evidence at the time of trial.

After considering the present facts and circumstance and after perusal of the photocopies of the documents, it is forthcoming that the plaintiffs have no prima facie case against the defendants and if the temporary injunction is not granted at this stage then the plaintiffs will not suffer the irreparable loss and the injury. The balance of convenience and inconvenience do not lean at this stage in favour of the plaintiffs.

Hence it is,

ORDERED

that the petition for temporary injunction against the defendants is considered and rejected on contest against defendant Nos.1 to 5.

The ad-interim Order of injunction is hereby vacated under the light of this order.

Fix 03-05-2024 for **framing of issue**

D/C by me

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