

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

Present: Shri Shahid Parvez

Civil Judge (Jr. Divn.)

J.O. Code: WB01233

P.S 52 of 2023, Regd. No.- 52 of 2023

CNR No. WBDD07-000252-2023

Order No. 02

Date: 21-08-2023

The record placed today by the petitioners/plaintiff who files a petition for hearing of the ad-interim prayer of the injunction application filed under Order XXXIX Rule 1 (a)(b)(c) and section 151 of the Code of Civil Procedure 1908.

As per the report of the Shreistedar, no caveat has been filed in this suit against the present application or otherwise.

The record is taken up for hearing of the ad-interim prayer of the injunction application. Heard ld. Advocate on behalf of the petitioner.

Perused the said application and other materials on record. Ld. Adv. of the plaintiff submitted that Ganesh Chandra Das @ Biswanath Das was the previous owner of the suit properties. His name was duly recorded in the concerned record of rights. On 30-04-2010, the gift deed No. 2422 was executed which was registered on 29-04-210 by Ganesh Chandra Das in favour of his son Bipin Das and daughter in law Basanti Das in respect of 31.5 decimals over LR plot No. 1308 and 5 decimals over LR plot NO. 1730 and 7.5 decimals over LR plot No. 1373 and in this way they got 44 decimals of properties in total. On 09-04-2012, he further transferred 10 decimals to them over plot NO. 1368 and 2.5 decimals over LR plot No. 1374. Defendant No.1 is the other son of Ganesh Chandra Das. He is the co-share of the property. The suit plot has not been partitioned by metes and bounds. On 20-07-2023, defendant Nos. 1 and 2 threatened the plaintiffs to dispossess from the suit properties and they are also contemplating to sell the other parts of the suit plot. They are also trying to change the nature and character of the suit properties, hence, the suit with a prayer for passing ad-interim injunction against defendant nos. 1 and 2 under the instant petition in hand u/O 39 Rule 1 (a)(b)(c) read with section 151 of the CPC.

The court holds after perusal of the petition and after hearing of the Ld Adv that admittedly defendant No.1 is the co-share of suit plot and without hearing him it will not be prudent to pass the ad-interim order of injunction against defendant Nos.1 and 2. Defendant No.2 is the wife of defendant No.

This Court perused the petition and photocopies of documents which have been filed by the plaintiffs. The plaintiffs have no prima facie case. The Court further finds that if the ad-interim injunction is not granted then plaintiffs will not suffer irreparable loss and injury. The balance of convenience and inconvenience do not lean at this stage in favour of the plaintiffs.

Hence it is,

ORDERED

that the prayer for ad-interim injunction against defendant Nos. 1 and 2 is considered and refused.

The defendants are directed to show cause within 15 days of the receipt of the notice to show cause as to why the temporary injunction shall not be granted against the defendants.

The plaintiffs are directed to file the requisite at once.

Todate for written objection and hearing of temporary injunction.

D/C by me

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