

T.S. 225 of 2012 (C.I.S. 904 of 2016)

Order No. 38

Dated 13.07.2017

Today is fixed for further hearing of injunction petition.

Both parties filed represented hajira.

Ld. Advocate for the plaintiff has already submitted regarding the injunction petition on the last date. Today Ld. Advocate for the defendant has placed his submissions against the injunction application in full. Now the case record is taken up for passing of order. The plaintiffs have prayed for temporary injunction regarding 30 2/3 decimal property from a total property of 37 decimal, in nature jol and kala of Mouza Guabera under P.S. Sutahata which is described as 'ka' schedule property of plaintiff. The entire property of 37 decimal has been described as 'kha' schedule property of plaintiff. As per plaintiff the 'kha' schedule property was in possession of one Padma Beg. After his demise the suit property was inherited by his children Sabiruddin and Surat Bibi. The share of Sabiruddin was inherited by his two sons Subahan and Rehaman. After the demise of Subahan the plaintiff Nos. 1-5 have succeeded his share. On the other hand Rehaman has sold his share of property to Sk. Daud Ali. Daud Ali has sold 6 decimal property from 12 1/3 decimal property to Jaibunnesa Bibi. Jaibunnesa has again transferred the 6 decimal land to plaintiff No. 6. Daud Ali has transferred the remaining 6 1/3 decimal property in favour of defendant No. 3. Plaintiff Nos. 7, 8, 9 and 10 have purchased the share of Surat Bibi which was inherited by her heirs. In such way the plaintiffs and the proforma defendant No. 3 have acquired right, title and interest in the suit property. The main defendants has no right, title and interest in the suit property. But on 5.2.2012 the defendant Nos. 1 and 2 have threatened the plaintiff to dispossess them from the 'ka' schedule property on the basis of an alleged deed of sale executed by Rehaman Beg in favour of defendant Nos. 1 and 2. The plaintiffs have challenged the genuineness of the alleged sale deed in favour of defendants. The plaintiffs have prayed for temporary injunction till the disposal of suit so that the nature and character of the 'ka' schedule property is not changed by the defendants.

Ld. Advocate for the defendants has submitted that the instant injunction application is filed against defendant Nos. 1 and 2. But defendant No. 1 has already transferred his share in the suit property in favour of Rahila Bibi. The plaintiffs have not amended their injunction petition.

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Contd.....T.S. 225 of 2012 Order No. 38 dated 13.07.2017.

Therefore, presently their injunction prayer has become infructuous as defendant No. 1 is not left with any right, title and interest in the suit property. Ld. Advocate for the defendants has further submitted that the defendant No. 1 had purchased 6 decimal property from 12 1/3 decimal property of Abdur Rehaman Beg on 20.9.1973. The defendants have also constructed residential house in the suit property. Ld Advocate for the defendant has submitted that the deed of 1973 is genuine and effective and the plaintiffs are not entitled to get any relief from this petition. I have perused the document submitted by both sides considered the rival submissions ld. Advocates.

It appears that the plaintiffs are not at risk of suffering irreparable loss in this suit. There is no urgency in this case. The injunction application filed by the plaintiffs deserves to be rejected.

Hence, it is

ordered

that the injunction petition is considered and rejected without costs.

Fix 22.11.2017 for P/H. Discovery and inspection if any in the meantime.

D & C by me

Civil Judge (Jr. Divn),
Haldia

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