

**J.O. Code: WB01490**

**T.S. 181 of 2023**

**CIS No. 181 of 2023**

**Order No. 02**

**28.07.2023**

The case record is put up today by virtue of put up petition filed by the plaintiff.

Ld. Advocate for the plaintiff has prayed for hearing of injunction petition with ad interim relief on the ground of urgency.

It appears from the case record that no caveat is pending against this suit till date. Therefore, the injunction petition is taken up for hearing.

The crux of the plaintiffs' case is that the defendants are using dag no. 137 and 108/773 under Chillagram Mouza to use the main road though they have a substitute road beside dag no. 112 and 136 under the same mouza to use the main road. Finding no other alternative the plaintiffs have filed this suit and this instant petition.

I have heard Ld. Advocate for plaintiff.

The plaintiffs have filed twenty original deeds in favour of his suit.

Thus, it appears that –

1) Through the gift deed being no. 5984 filed by the plaintiff, the plaintiff appears to have a **legal right** upon dag no. 108 under Chillagram mouza. Through the gift deed being no. 316 it appears that the plaintiff, namely, Shyamal Kumar Giri, to have a **legal right** upon dag no. 25/777 and 108/773 under Chillagram mouza. It can be seen that if the defendant makes construction on the ingress and egress road of schedule 'ka/1', the **right of the plaintiff will be infringed**. Thus, it can be found that the plaintiff has also an issue to be tried by this Court. Therefore, the plaintiff has got a **prima facie case** fit for adjudication.

2) Since, it appears from the gift deeds that the plaintiff has a legal right over the 'ka/1' scheduled property, therefore, it appears that the **balance of convenience** lies in favour of the plaintiff and the **balance of inconvenience** lies in favour of the defendant.

3) It appears to the Court that if the defendant makes construction over 'ka/1' scheduled property, then the plaintiff will suffer **irreparable loss and injury**.

Hence, it is

**Ordered**

that the ad interim injunction prayer of plaintiff under Order 39

Rule 1 & 2 of CPC is considered and **ALLOWED** without any order as to costs.

The defendant is hereby directed not to change the nature and character of the 'ka/1' suit property of plaintiff till 11.12.2023.

The defendant is also directed not to transfer the 'ka/1' scheduled suit property to third person till 11.12.2023.

The defendant is directed to show cause within 15 days from receipt of notice as to why the temporary injunction prayer of plaintiff shall not be allowed in his favour.

Plaintiffs are directed to comply Order 39 Rule 3(a) and (b) of CPC.

Requisites at once.

Ld. Advocate for the plaintiffs have also prayed for local inspection of the suit property.

Heard. Perused. Considered.

It appears from the schedule of instant petition that the local inspection will bring the real picture of the suit property before this Court and that will help in effective adjudication of suit. Other than that the defendant will not be prejudiced by such local inspection.

Hence, it is

**Ordered**

that the local inspection petition is considered and **allowed** without costs.

**Debkumar Bag**, a practicing Ld. Advocate of this Court is hereby appointed as Ld. commissioner to hold local inspection as per schedule annexed to the instant petition.

The plaintiff is directed to pay a sum of **Rs. 1,200/-** as Ld. Commissioner's fees.

Ld. Commissioner is further directed to hold local inspection after serving notice upon both parties in their presence.

Issue writ as soon as payment is made.

**To dated (11.12.2023) for S/R.**

Sd/-  
Civil Judge (Jr. Divn),  
Haldia

Sd/-  
Civil Judge (Jr. Divn),  
Haldia