

Present: Smt. Bristi Bardhan J.O. Code: WB01490

J.Misc. (Pre-emption) 41 of 2023

CIS No. 41 of 2023

Order No. 02

30.09.2023

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

Ld. Advocate for the pl Petitioner 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 Petitioner's case is that the Opposite Party, being the stranger to the alleged plot, had purchased 21 decimals of land upon dag no. 835 under Ichhapur mouza without giving any notice to the Petitioner. Finding no other alternative the Petitioner has filed this suit and this instant petition.

I have heard Ld. Advocate for Petitioner.

The Petitioner has filed several documents in favour of his suit.

Thus, it appears that –

1) Through the **Sale Deed being no. 6954 of 1971** filed by the Petitioner, it can be found that the Petitioner's father, namely, Bankim Bihari Pramanick had purchased 09 decimals of land upon dag no. 835.

After the death of Bankim Bihari Pramanick, the property devolved upon his wife, one son and one daughter.

It appears from the LR record that the Petitioner's name has been recorded in the LR record in respect of dag no. 835 having 03 decimals of land.

Thus, the Petitioner appears to have a **legal right** upon dag no. 835 having 09 decimals of land under Ichhapur mouza. Therefore, at this juncture, it appears that the Petitioner the **right of the Petitioner will be infringed**. Thus, it can be found that the Petitioner has also an issue to be tried by this Court. Therefore, the Petitioner has got a **prima facie case** fit for adjudication.

2) Since, it appears from the **Sale Deed being no. 6954 of 1971** that the Petitioner appears to have a legal right, therefore, it appears that the **balance of convenience** lies in favour of the Petitioner and the **balance of**

inconvenience lies in favour of the Opposite Party.

3) It appears to the Court that if the Opposite Party try to transfer the suit property, then the Petitioner will suffer **irreparable loss and injury**.

Hence, it is

ORDERED

that the ad interim injunction prayer of Petitioner under Order 39 Rule 1 & 2 of CPC is considered and **ALLOWED** without any order as to costs.

The Opposite Party is hereby directed not to transfer the suit property of plaint till 28.11.2023.

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

Petitioner is directed to comply Order 39 Rule 3(a) and (b) of CPC.

Requisites at once.

To **28.11.2023** for S/R.

Sd/-

Civil Judge (Jr. Divn),

Haldia

Sd/-

Civil Judge (Jr. Divn),

Haldia