

Present : Bristi Bardhan J.O. Code: WB01490

T.S. 318 of 2018

CIS No. 318 of 2018

Order No. 24

07.05.2024

Today is fixed for injunction hearing as last chance.

Both parties file their respective hazira.

The case record is taken up for injunction hearing.

Heard submission of Ld. Advocate for both sides.

It is submitted by the Ld. Advocate of the **Plaintiffs** submits that they had obtained 4-11/16 decimals of land upon the suit plot by way of **Sale Deed being no. 6083/1988** from Banewar Mondal, Banhi Mondal and Mrityunjoy Mondal.

After this, Sadhan Mondal had transferred his share of 6-1/4 decimals of land to Banewar Mondal by virtue of **Sale Deed being no. 3899/1992**.

Then, Banewar Mondal had gifted 3-1/8 decimals of land to each of the Plaintiff out of his 6-1/4 decimals of land by virtue of **Gift Deed being no. 2578/2011**.

As a result, each of the Plaintiff own 7-13/16 decimals of land upon Dag no. 1526. But, LRROR had wrongfully recorded the share of the Plaintiff. Thus, the Defendants are trying to transfer the suit plot.

Ld. Advocate for the **Defendants** submits that this suit is not maintainable as this suit is bad due to defect of parties as the Plaintiff had not made BL & LRO as parties to the suit. Even, the Defendants are co-sharers of Dag no. 1526. Thus, injunction cannot be passed against the co-sharers. Also, the Defendants claim that the Sale Deed being no. 6083/1988 as false as at that time Plaintiffs were minors and were not in position to execute Sale Deed by monetary transaction.

Considering the submissions of Ld. Advocates, this Court is of the opinion that :

1) It can be derived from the **Sale Deed being no. 6038/1988**, both the Plaintiffs and the Defendants had received 18-3/4 decimals of land from Banewar Mondal, Banhi Mondal and Mrityunjoy Mondal.

But, the Defendants submit that at that time Plaintiffs and one of the Defendants were minors. But, Defendants had failed to submit any document in that support.

Therefore, at this stage, it will be fallen into account that both the Plaintiffs and the Defendants had received **4-11/16** decimals of land each upon **Dag no. 1526**.

Again, Banewar Mondal had gifted 6-1/4 decimals of land to both the Plaintiffs by virtue of **Gift Deed being no. 2578/2011**. As a result, each of the Plaintiff had received 3-1/8 decimals of land upon Dag no. 1526.

But, the Defendants had challenged such Deed stating that such Deed was obtained by false personification.

But, it is a matter of trial where it will be decided whether the Gift Deed 2578/2011 was obtained by fraud or not.

Therefore, at this stage, Defendants have nothing to show that such Gift Deed is fraudulent Deed.

Thus, at this stage, it appears that each of the Plaintiff owns 7-13/16 decimals of land by virtue of Sale Deed and Gift Deed.

But, the LRROR does not appear to have recorded their share. But, this is to be decided at the stage of trial.

At this juncture, it appears that the Plaintiff own the 'ka' schedule of the Plaint which is Dag no. 1526 having 16 decimals of land by virtue of Sale Deed being no. 6038/1988 and Gift Deed being no. 2578/2011.

Thus, it can be found that the Plaintiff has 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 Sale Deed being no. 6038/1988 and Gift Deed being no. 2578/2011, that the Plaintiff has a legal right over the suit plot, therefore, it appears that the balance of convenience lies in favour of the Plaintiffs and the balance of inconvenience lies in favour of the Defendants.

3) It appears to the Court that if the Defendants try to transfer the 'ka' schedule of the plaint, then the Plaintiffs will suffer irreparable loss and injury.

So, the Court is inclined to ALLOW the Injunction Petition on the ground that at this stage there are sufficient documents in favour of the Plaintiff.

Hence, it is

ORDERED

that Injunction Petition is hereby considered and ALLOWED on contest without any cost.

Defendants are restrained from transferring the 'ka' schedule of the plaint till the disposal of the suit.

To 23.08.2024 for framing of issue.

D & C by me

Sd/-

Civil Judge (Jr. Divn),
Haldia, Purba Medinipur

Sd/-

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Haldia, Purba Medinipur