

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

O.S. 45 of 2023

CIS No. 45 of 2023

Order No. 02

03.01.2024

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 Plaintiff's case is that the defendants are threatening to take over the Tipper of the Plaintiff as he had a due for the repayment of the loan to the Defendants. Finding no other alternative the Plaintiff has filed this suit and this instant petition.

I have heard Ld. Advocate for Plaintiff.

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

Thus, it appears that –

1) Through the Certificate of Registration and Statement of Account it appears that the Plaintiff has a loan of Rs.13,92,209/- towards the Defendants and the Plaintiff is willing to pay such due amount.

The Plaintiff claims that he had paid an amount of Rs.3,28,000/- towards the Tipper being no. WB33C9249.

Thus, it appears that the Plaintiff appears to have a legal right upon schedule property through the Blue Book. It can be seen that if the Defendants take over the vehicle of the Plaintiff as mentioned in the schedule, then, 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 Certificate of Registration and Statement of Account, that the plaintiff has a legal right over the 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 Defendants.

3) It appears to the Court that if the Defendants take over the vehicle of the Plaintiff as mentioned in the schedule, 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 Defendants are hereby directed not to take the possession of the vehicle of the Plaintiff as mentioned in the schedule without giving any opportunity to the Plaintiff to pay the dues till 02.03.2024.

The Defendants are 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.

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

Requisites at once.

To date (02.03.2024) for S/R.

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

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