

T.S. 362 of 2022

Order No. 2

Date:22.12.2022

The record is put up today by way of a put up petition.

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

Ld. Advocate for defendant no.6 appeared today and filed a time petition for filing W/S and W/O.

The Ld. Advocate for the defendant no.6 submitted that as he has appeared in this case no ad interim injunction shall be passed.

Ld. Advocate for the plaintiffs submitted that the case is filed yesterday and no summons is issued to the defendants, how the defendants came to know about this suit. He submitted that the defendants were playing a game of watch and wait. They are trying to transfer the suit property in favour of third person and they are also trying to change the nature and character of the suit property. If ad interim order is not passed in favour of the plaintiff, the plaintiff will suffer irreparable loss and injury.

Heard both sides.

Perused the petition and other materials on record.

When the ad interim injunction petition is mover by the Ld. Advocate for the plaintiffs, defendant no.6 appear before this case through his advocate. The summons is yet to be served upon the defendants. Therefore, no question of appearance of the defendants arises at this juncture. It means that the defendants are well aware that the plaintiffs are going to filed a suit against them and as soon as the temporary injunction petition is moved before this court, defendant no.6 appeared. Temporary injunction is an equitable relief and it helps the party to a case who comes before this court with clean hand. The conduct of defendant no.6 is prima facie appear would be malafide. When the defendants were aware about the fact that the plaintiffs are going to file a suit against them they should have filed a caveat in the court but they did not do so and defendant no.6 appeared before this court in the nick of the time. This court is of the opinion that if an injunction order is not passed against the defendants there is every possibility that the defendant will change the nature and character of the suit property or they will transfer the suit property in favour of third person. This court considers that the plaintiffs have a prima facie case. The theory of balance of convenience and irreparable loss till in favour of the plaintiff.

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.

Both parties are directed to maintain status quo in respect of nature and character and possession of the suit property. The defendants are further directed not to transfer the suit property in favour of third person till 21.01.2023.

But this injunction order shall be in force till 21.01.2023 only and it will come to an end on 21.01.2023 unless further extension by this court. The defendants are directed to file W/S and W/O within 21.01.2023.

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

Requisites at once.

To _____ for appearance of other defendants, injunction hearing and W/S and W/O in the meantime.

D & c by me

Civil Judge (Jr. Divn),
Haldia

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Ld. Advocate for the plaintiff has 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.

Pabitra Das, 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 21.01.2023 for appearance of other defendants, injunction hearing and W/S and W/O in the meantime.

D & c by me

Civil Judge (Jr. Divn),
Haldia

Civil Judge (Jr. Divn),
Haldia