

Misc. Appeal No. 106/2024
CNR No. WBHW0100 2593 2024

Present: Sonia Majumdar
District Judge, Howrah.
J.O. Code – WB01128

Order No. 05 dated 19.07.2024.

The record is put up today in view of the order dated 18.07.2024.

On the prayer of the learned Advocate for the appellants, the application under Order 39 Rules 1 and 2 read with sec. 151 of the C.P.C. is moved for passing temporary or ad interim injunction.

From the office report it appears that there is no caveat till date.

The application under Order 39 Rules 1 and 2 read with Section 151 of the C.P.C. with a prayer for an order of ad interim temporary injunction restraining the respondent/defendant from transferring and/or alienating the suit property and other reliefs, is taken up for hearing.

The case of the appellants is that the suit property was purchased by Dhananjay Chowdhury, the predecessor of the appellants and the respondent jointly by a registered deed of sale and they along with the defendant are the joint owners/ co-sharers in respect of the suit property. It is the further case of the appellants that the appellants on several occasions requested the respondent to make amicable partition of the suit property but the respondent did not pay any heed to the same and she is now trying to transfer the suit property to the third party. The appellants informed the matter to the local P.S. and also filed Title Suit being No. 167 of 2024 for partition, injunction and other consequential reliefs along with an application for an order of ad interim temporary injunction which was rejected by the learned Trial Court. Being aggrieved, the appellant then filed the instant Misc. Appeal whereby they have prayed for an order temporary or ad interim injunction.

Heard learned Advocate for the appellants. I have perused the injunction application and photocopies of the documents and other materials on record.

Considered.

On consideration of the same, I find that the appellants have filed photocopies of the documents like certified copy of sale deed dated

16.08.1967, L.R. parcha, khajna receipts, death certificate of their predecessor etc. in support of their case. On consideration of the same, it comes out that the appellants have prima facie case.

Considering the facts and circumstances of the case and also considering the urgency of the matter, I am of the considered opinion that an order of ad interim injunction in the form of status quo relating to the nature, character and possession may be allowed for a limited period.

Hence, it is,

Ordered

that the application under Order 39 Rule 1 and 2 read with Section 151 of the C.P.C. praying for ad interim order of injunction is allowed in the form of status quo.

Both parties are directed to maintain status quo as to nature, character and possession of the suit property for limited period till 26.07.2024.

Issue notice upon the respondent asking him to show cause within fifteen days from the date of receipt thereof as to why the prayer for temporary injunction shall not be granted.

Requisites at once.

The appellants are directed to comply with the provision of Order 39 rule 3 (a) & (b) of the C.P.C. at once.

To date.

Dictated & corrected by me.

D. J.

District Judge, Howrah.