

Title Appeal No. 108/2024
CNR No. WBHW0100 3781 2024
Present: Sonia Majumdar
District Judge, Howrah.
J.O. Code – WB01128

Order No. 03 dated 19.08.2024.

The record is put up today as per order dated 16.08.2024.

On the prayer of the learned Advocate for the appellant, 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 respondents/defendants and their associates, agents and servants from disturbing and/or creating obstruction to the peaceful enjoyment of the suit property and also from changing the nature and character of the suit property and other reliefs, is taken up for hearing.

The case of the appellant is that 'A' schedule suit property originally belonged to one Bimola Charan Banerjee and the present appellant and his brother became the owner of the said property by virtue of a registered deed of sale dated 15.04.1964 and the 'B' schedule property is a common passage used by the local people including the appellant without any hindrance. It is the further case of the appellant that the respondents are now trying to disturb the uninterrupted common use of said common passage as well as causing impediment for free egress and ingress of the appellant and the respondents are trying to make illegal construction over the said common passage i.e. 'B' schedule suit property. The appellant lodged a G.D. and a criminal case against the respondents and also filed a Title Suit being no. 108 of 2017 for declaration and permanent injunction and the said Title Suit was disposed of finally and the application under Order 39 Rule 1 and 2 read with Section 151 of the C.P.C. regarding the order of status quo in respect of 'B' schedule property was vacated by the learned Trial Court. Being aggrieved, the appellant then filed the instant Title Appeal whereby he has prayed for an order temporary or ad interim injunction.

Heard learned Advocate for the appellant. 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 appellant has filed photocopies of the deed being no. 3030 for the year 1957, deed being no. 1152 for the year 1964, deed being no. 3383 for the year 1999, G.D. Entry, copy of order in Complain Case No. 42c/17, copy of order in M.R. Case no. 1825/15, searching of DRR, copy of deed being no. 0042 for the year 2016, copy of math parcha, copy of LR parcha, khajna receipts, copy of commissioner's report with sketch map etc. in support of his case. On consideration of the same, it comes out that the appellant has 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 03.10.2024.

Issue notice upon the respondents asking them 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 appellant is 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.