

TS – 62 / 2021 (CIS – 62 / 2021)
CNR – WBHW07-000087-2021)

Order No.2 dated 29.04.2021

Record is put up on the prayer of the plaintiffs.

Ld. Advocate of the plaintiffs moves the application filed under Order 39 Rules 1 & 2 of the C.P.C. read with Section 151 of the C.P.C. for an order of ad interim injunction against the defendant.

As per the note given by the Sherestader there is no caveat pending in connection with the subject matter of the present suit.

This is the suit for declaration as well as permanent injunction.

Ld. Advocate of the plaintiffs moves the application for ad interim injunction and submitted that the 'Ka-1' schedule property is the part and parcel of the 'Ka' schedule property which belongs to the plaintiffs. Ld. Advocate submitted that the plaintiffs became owner of the 'Ka' schedule property vide sale deed No. 051000041 of 2019 executed in favour of the plaintiffs by Probir Guchait and others on 10.01.2019. The 'Ka-1' schedule property is the suit shop room of the plaintiffs. Ld. Advocate further submitted that the 'Ka-2' schedule property is the portion of land situated at the back side of the 'Ka-1' schedule property. Ld. Advocate further submitted that the defendant has got no right title or interest in the 'Ka', 'Ka-1', 'Ka-2' schedule properties. But despite this the said defendant has been making illegal construction on the 'Ka-2' schedule property on and from 21.04.2021 when the plaintiffs gave obstruction then they were threatened with dire consequences by the defendant. The plaintiffs brought this matter to the notice of UN Pur P.S. on 24.04.2021 but no action was taken against the said defendant. Ld. Advocate of the plaintiffs contended that for the said reason the plaintiff were compelled to file the present suit against the defendant in order to protect their right, title and interest in the schedule property.

Heard the Ld. Advocate of the plaintiffs at length.

Perused the instant application as well as the documents furnished by the plaintiffs like the LRROR relating to the suit property as well as photocopy of sale deed No. 051000041 / 2019 and the plot information slips pertaining to the suit property. It is revealed from the aforesaid document that the plaintiff has got right, title and interest in the 'Ka' and 'Ka-1' schedule properties. However, no documents were furnished by the plaintiffs from which their right, title and interest in the 'Ka-2' schedule property could be ascertained. It is pertinent to mention here that the plaintiffs are seeking an ad interim order of injunction against the defendant in connection with the 'Ka-2' schedule property but they could not furnish any cogent document with regard to their specific interest in the 'Ka-2' schedule property. Therefore after taking all these facts into account, this Court is not inclined to pass any ad interim order of injunction against the defendant at this stage without first giving an opportunity of hearing to him.

Hence it is,

ORDERED

That the application for ad interim injunction filed by the plaintiffs is refused for reasons already discussed herein.

Issue notice upon the defendant calling upon him to show cause within ten days from the date of receipt of the said notice as to why the application for temporary injunction filed by the plaintiffs shall not be granted against him.

Plaintiffs are further directed to file requisites immediately.

To 01.06.2021 for filing show cause by the defendant and to 15.07.2021 for S/R, appearance of the defendant.

D/C by me

C. J. (Jr. Divn.)
Amta, Howrah
(JO Code WB 01195)

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