

Title Suit 108 of 2023

Order No.2 dated 21.09.2023

Today the record is placed before me by way of put up which is allowed.

Ld. Advocate for the plaintiff moves the petition for an order of ad interim injunction U/O 39 Rule 1 and 2 read with section 151 CPC.

No caveat is pending in this case as per the report of the Sheristadar.

Ld. Advocate for the plaintiff files some documents by firisti. Xerox copies of the documents are with the record.

Now, let us consider whether on the basis of the statement made on affidavit by the plaintiff and the documents filed by him, an order of ad interim injunction as prayed for can be granted at this stage prior to the issuance of notice upon the defendants against whom the said prayer of ad interim injunction is made.

Heard the Ld. Advocate. Perused the said injunction petition, plaint and documents filed by the plaintiff and considered.

Now, the record is taken up for passing order.

This is a suit for declaration, partition and injunction.

-: Case of the plaintiff :-

The case of the plaintiff in a nutshell is that the father of the plaintiff and defendant No. 1 & 2 has executed three deed of gifts and allotted the portion of the property in favour of the plaintiff and defendant Nos. 1 & 2. Again he executed a deed of gift in favour of defendant No.1 by allotting him some portion of the suit property. Now the defendant No. 1 is trying to dispossess the plaintiff who is also the co-sharer in respect of the suit property. Hence the plaintiff has come before the Court with folded hands for grant of temporary injunction by restraining the defendant no.1 and his men and agent from disturbing the peaceful possession of the plaintiff, changing the nature and character, forcefully dispossessing the plaintiff, demolishing any construction, creating third party interest in respect of the 'A' schedule suit property.

DECISION WITH REASONS

Now, the Court has to decide whether on the basis of the documents submitted by the plaintiff as well as from the verbal submission of the Ld. Advocate this Court can grant an ex parte order of ad interim injunction in favour of the plaintiff or not.

Upon a close inspection to the matter and considering the entire facts and circumstances of the case, on perusal of the injunction application as well as affidavit and relevant documents submitted by the plaintiff, it is found that there is lack of evidence and clarity in the case. So, this Court is of the opinion that at this stage without hearing the defendants a blanket order of ad interim injunction cannot be granted to the plaintiff. Therefore, this Court, standing upon the situation and considering the facts and circumstances, holds that the balance of convenience and

inconvenience does not weigh in favour of the plaintiff. Further the Court thinks that without the order of injunction the plaintiff shall not suffer irreparable loss and injury. In view of the above circumstances prayer for ad-interim injunction is refused at this stage.

Hence, it is

ORDERED

that the ad-interim injunction as prayed for is hereby refused.

Issue notice upon the defendants by calling him to file show-cause within **15 days** on receipt of this notice as to why temporary injunction shall not be granted as per prayer of the plaintiff.

Original documents were duly returned.

D/c by me

CJ

**Civil Judge (Jr Divn)
Amta, Howrah**