

Order No.15 dt. 01.06.16.

Today is fixed for hearing of injunction petition.

Both parties file their respective haziras.

Defendants have filed some documents (xerox) by way of firisti. Let it be kept with the record.

Both the Ld. Advocates are present.

Now the record is taken up for hearing & passing necessary order.

I have heard the submissions of both the parties at length.

The plaintiff's case in a nutshell is that the suit plot belonged to Sattya Charan Dalui, the predecessor of the plaintiffs and the defendants, who became the owner of the same by purchasing the same from Dharendra Karmakar. Subsequently, Sattya Charan Dalui died leaving behind four sons and 3 daughters and his widow about 25 years ago. Accordingly, all his legal heirs got 1/8<sup>th</sup> share in the suit property. While the four sons and the widow of Sattya Charan Dolui were in possession of the same, sold their share to Lavash Porel, who is the father of the plaintiffs No.1 to 4 and 6 and the husband of plaintiff No.5 measuring about 16 ½ decimal of land and the south-eastern portion of the suit plot. The predecessor of the plaintiffs used the suit property as bastu. The rest portion of the suit plot was sold by the three daughters of Sattya Charan Dolui to the plaintiffs No.1 and 2. The defendants No. 1 to 3 got their share in the suit property by way of inheritance and the defendant No.4 became the so-sharer of the suit property by way of purchase. Now, the defendants are trying to disturb the peaceful possession of the plaintiffs over the suit property. In this situation, the plaintiffs have filed this instant suit and prayed for temporary injunction. The O.P./defendants by filing written objection contested the injunction petition of the petitioner/plaintiff. In their W.O. the O.P. denied the averments of the injunction petition and submitted that the plaintiff has not made party all the co-shares of the suit property and deed being No. 3228 is void, inoperative and not acted upon till date. Moreover he did not come with the clean hands; hence the injunction petition is liable to be rejected.

Now, it has been held through various judicial pronouncements that while considering petitions of this nature the court should take note of the following ingredients, namely prima facie case, balance of convenience and inconvenience and irreparable loss.

The documents as filed by the plaintiff successfully advertise a prima facie case and they also manifest a good arguable case to go to trial. As far balance of convenience and inconvenience is concerned, the documents on record prima facie suggest that the plaintiff's case has material in it. The last but not the least point to be considered is irreparable loss. In my opinion, if at this stage of litigation if the plaintiff is not given any protection in respect of the suit property, then it will certainly cause him loss and which is definitely not desirable.

As the parties are heavily divided to maintain status quo regarding the nature of

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