

Title Suit No. 57 of 2019

Order No.33 dated 29.08.2024

Today is fixed for hearing of the injunction application u/Or 39 r 1 & 2, and under Section 151 of CPC.

Plaintiff filed hazira.

Defendants filed hazira.

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

The plaintiff / petitioner has prayed for an order of temporary injunction against the principal defendants restraining them and their men and agents from creating any disturbance in the peaceful possession of the plaintiff over the suit property and or from changing the nature and character of the suit property and / or from dispossessing the plaintiff from the suit property forcibly and illegally and / or from transferring the 'A' schedule noted suit property on the strength of 'B' schedule record of right, and 'C' schedule deed on the grounds that plaintiff and defendant No0. 1 being the son of Gourmohan Bera, became the joint owners and occupiers in respect of 'A' schedule noted suit property having 1/3rd share each over the same but the name of defendant No. 1 & 2 have been erroneously recorded in respect of the suit property by taking the advantage of erroneous record of right the defendant No. 2 has transferred the suit property to the defendant No. 3 to 5 by way of registered deed of gift more fully described in schedule 'C' to the plaint. The plaintiff submitted that the 'B' schedule record of right is erroneous, invalid and not binding upon the plaintiff and the 'C' schedule deed is also void and not binding upon the plaintiff but the defendant is now trying to dispossess the plaintiff from the suit property and further threatened that they would transfer the suit property to any third person.

Ld. Advocate for the defendants raised vehement objection.

Heard. Considered.

After perusal of the record it is seen that from the various deeds of sale filed by the plaintiffs it is crystal clear that both the plaintiffs and defendants have the right, title and interest over the property and they are the co-sharers in respect of the same. So at present it is necessary to protect their possession and the property for the ends of justice.

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 submission of both the parties, this Court does not find any impediment in allowing the injunction application. Further the Court thinks that without the order of injunction the plaintiff shall suffer irreparable loss and injury. In view of the above circumstances prayer for temporary injunction is considered and allowed in the form of status quo. So both the parties should maintain status quo as to the nature, character and activities as on this day in respect of the suit property till disposal of the suit.

Hence, it is

ORDERED

The application u/Or 39 r 1 & 2 CPC r/w section 151 CPC is allowed and

disposed of on consent without any order as to cost. Both the plaintiff and defendants are hereby directed to maintain status quo with regard to nature, character and activities as on this day in respect of the suit property till the disposal of the suit.

To **18.11.2024** for framing of issues.

D/c by me

CJ

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