

Title Suit 47 of 2024

Order No.2 dated 15.05.2024

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.

The caveat has been lodged being No. 35 /2024 by defendant No. 8, 9, 10 and others against defendant No. 15, 16 and others. So there is no caveat against the plaintiff.

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 plaintiff is a co-sharer in respect of the suit property along with the defendant No.1 and other defendants. The defendant No. 1 is trying to make illegal construction over the suit property and also trying to dispossess the plaintiff from the same. Hence the plaintiff has come before the Court with folded hands for grant of temporary injunction by restraining the defendant no.1 from creating disturbance in the peaceful possession of the plaintiffs, dispossessing the plaintiff, raising any construction, changing the nature and character in respect of the 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, 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. Moreover there is no urgency in the case. 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 **20 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