

Contd...order No.1 dated 11.04.2023

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 defendants.

As per the note given by the Sherestader no caveat has been lodged in connection with the defendant or the subject matter of the present suit.

Accordingly, there is no impediment in taking up the application for ad interim injunction filed by the plaintiffs in the instant 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 suit property described in the 'Ka' schedule of the plaint is the subject matter of the present suit. Ld. Advocate submitted that the suit property originally belonged to their predecessors namely Bijoygopal, Joygopal, Nandagopal, Kedarnath, Bibhutibhusan and Basanta Kumar. The plaintiffs have inherited the suit property upon the demise of their aforesaid predecessors. The names of the said predecessors were also duly recorded under RS khatian No. 1141 for the mouza of Amta. At present the LRROR relating to the suit property stands recorded in the name of the plaintiffs. Ld. Advocate went on to contend that the defendants do not have any right, title or interest in the suit property. On the other hand, the plaintiffs have made conveyances between themselves in connection with the suit property vide several registered conveyance deeds. Ld. Advocate further submitted that on and from 30.10.2022 the defendants are giving repeated threats that they will forcibly dispossess the plaintiffs from the suit property. He also submitted that when the plaintiffs objected to the threats given by the defendants then the said defendant further threatened them that they will change the nature and character of the suit property by making illegal construction on the same. Ld. Advocate of the plaintiffs contended that for the said reason the plaintiffs have been compelled to file the present suit in order to protect their interest in the suit property.

Heard the Ld. Advocate of the plaintiffs at length.

Perused the instant injunction application as well as the documents furnished by the plaintiffs like the RSROR relating to RS khatian No. 1141 for the mouza of Amta, the LR plot information slip relating to suit property as well as registered conveyance deed Nos. 4695 of 2018, 109 of 2010 & 2793 of 1984 relating to the suit property. From the aforesaid documents it is apparent that the plaintiffs have got a definite interest in the suit property. Thus, the plaintiffs have succeeded in making out a prima facie case which is fit to be tried by this Court so far as the schedule suit property is concerned. Therefore, it is imperative that the interest of the plaintiffs in the suit property should be preserved and protected till the disposal of the temporary injunction application. Thus, upon weighing the balance of convenience and inconvenience as well as after taking into account the urgency involved in the matter, it is the considered view of this Court that an order of ad interim injunction should be granted in favour of the plaintiffs so far as the suit property is concerned, otherwise, the very object of filing the instant suit would stand defeated.

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TS – 48/ 2023 (CIS – 48/ 2023)
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Hence it is,

ORDERED

That the application for ad interim injunction filed by the plaintiffs is allowed in respect of the suit property as described in the 'Ka' schedule of the plaint. Both parties are directed to maintain status quo with regard to the nature, character and possession of the suit property as on this date till the disposal of the temporary injunction application. In addition to this the defendants are hereby restrained from forcibly dispossessing the plaintiffs from the suit property without the due process of law besides being further restrained from changing the nature and character of the suit property in any manner by making any construction on the same till the adjudication of the temporary injunction application.

Issue notice upon the defendants calling upon them to show cause within fifteen 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 allowed and an order of temporary injunction shall not be passed against them.

Plaintiffs are directed to comply the provisions of Order 39 Rules 3 (a) & (b) of the C.P.C. at once.

Plaintiffs are further directed to file requisites immediately.

To 15.05.2023 for filing show cause by the defendants and to 12.07.2023 for S/R, appearance of all the defendants.

D/C by me

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

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