

Title Suit No. 58 of 2022

Order No.19 dated 13.09.2024

Today is fixed for hearing of the injunction application u/Or 39 r 1 & 2, under Section 151 of CPC and SR / AD of proforma defendant Nos. 6 & 7.

Plaintiff filed hazira.

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

Ld. Advocate of the plaintiff moves the application for temporary injunction and submitted that the plaintiff is a bargadar in respect of the suit property. Ld. Advocate further submitted that prior to the plaintiff, his grandfather and father cultivated the suit property as bargadars under one Jatindranath Roy and his legal heirs. Ld. Advocate contended that the cause of action behind the filing of the instant suit arose for the first time on 20.01.2022 when defendant No. 1 prevented the plaintiff from cultivating the suit property and also attempted to dispossess him from there. Subsequently the plaintiff came to know that defendant No. 1 has become the owner of the suit property and for this reason he was making repeated attempts to forcibly dispossess the plaintiff from there. Hence the plaintiff prayed before the Court for granting temporary injunction by restraining the defendant No.1 from changing the nature and character of the suit property, creating disturbance in the peaceful cultivation by the plaintiff, forcible dispossession of the plaintiff.

Heard. Considered.

On perusal of the record it is seen that the plaintiff has filed one LR information slip in respect of plot No.644 of khatian No. 549 in which his predecessor was the recorded bargadar. But this is not the suit dag. The suit being No. 1362 there is no reflection of the bargadar or even nowhere it is mentioned that the predecessor of the plaintiff was the bargadar in respect of suit dag No. 1362. No documents were filed on behalf of the plaintiff to prove that he is the recorded bargadar in respect of the suit property. As such the plaintiff failed to prove his right, title and interest over the suit property.

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, it is found out that there is no prima facie case of the plaintiff, balance of convenience and inconvenience does not weigh in favour of the plaintiff. As such this Court is not inclined in allowing the injunction application. 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 temporary injunction is rejected.

Plaintiff filed requisites for issuing summons on proforma defendant No. 6.

DA is directed to issue the same at once.

The suit is already proceeding ex parte against proforma defendant No.7.

Hence, it is

ORDERED

The application u/Or 39 r 1 & 2 CPC r/w section 151 CPC is rejected and disposed of ex-parte without any order as to cost.

To **11.02.2025** for SR / AD of defendant No.6.

D/c by me

CJ

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