

TS – 60/ 2023 (CIS – 60/ 2023)
CNR – WBHW07-000 089 -2023)

Order No. 6 dated 21.12.2023.

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

Plaintiff filed hazira and prayed for extension of the ad interim injunction by filing petition.

Defendant No.1 filed hazira.

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

Heard the Ld. Advocate of the plaintiff who submitted that the plaintiff has specific share in the suit property as described in the schedule 'Ka' of the plaint. The plaintiff has contended that she has acquired interest in the suit property by way of registered sale deed No. 2113 of 1998. Ld. Advocate submitted that the suit property is a joint property which is yet to be partitioned by metes and bounds between the plaintiff and defendant Nos. 2 to 4. Ld. Advocate submitted that till recently the plaintiff was in peaceful possession of her share in the suit property. However, on and from 09.05.2023 the defendant No.1 has been disturbing the peaceful possession of the plaintiff in the suit property by giving out threats that he will forcibly dispossess the plaintiff from the suit property and shall change the nature and character of the same by making construction forcibly. Besides this he also threatened to transfer the suit property to a third party even though defendant No. 1 has got no right, title or interest in the same. Ld. Advocate of the plaintiff thus submitted that the plaintiff has been for the aforesaid reasons compelled to file the present suit against the said defendant in order to protect her right, title, interest in the schedule suit property. He, therefore, prayed for an order of temporary injunction against the defendant No.1 restraining him from forcibly dispossessing the plaintiff from the suit property as well as from changing the nature and character of the suit property till the disposal of the temporary injunction application.

Heard Ld. Advocate for the defendant No.1 who submitted that he purchased 1/4th share of the property in the year 1970 and his name is duly recorded in LRROR. The plaintiff has filed the mutation application before the BL&LRO but the same has been rejected. The defendant is in possession of the property. The plaintiff has executed the deed in the year 1998 and purchased the 1/4th share in the property which is duly admitted. The defendant also admits the CS & RSROR filed by the plaintiff. The defendant No. 1 stated that they are not disturbing the peaceful possession of the plaintiff.

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Heard. Considered.

From the documents it is clear that the plaintiff and defendant No. 1 both have the right, title and interest in the suit property which is undemarcated and undivided one. So without going into the trial their shares cannot be demarcated at this stage. Both are in the possession of the schedule 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 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 defendant No.1 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.

On perusal of the record it is seen that the summon has been duly served upon defendant Nos. 2, 3 & 5 but they have not appeared in this suit.

So the suit will proceed ex parte against defendant Nos. 2, 3 & 5.

To **15.02.2024** for fresh step upon defendant No. 4.

D/c by me

CJ

Civil Judge (Jr Divn)
Amta, Howrah