

Title Suit 97 of 2024

Order No.2 dated 06.09.2024

Today the record is placed before me by way of put up which is allowed.

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.

No caveat is pending in this case as per the report of the Sheristadar.

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 plaintiffs 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 defendant 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 plaintiffs :-

The case of the plaintiff in a nutshell is that the plaintiff became the co-sharers of the property along with the defendants by way of inheritance. Defendant Nos. 3 to 5 have transferred some of the suit property to the defendant Nos. 1 & 2 and now defendant Nos. 1 & 2 are trying to dispossess the plaintiff forcefully. Plaintiff also have share in the same. The whole of the schedule suit property is undivided and undemarcated one. Hence the plaintiff has come before the Court with folded hands for grant of temporary injunction by restraining the defendant No.1 & 2 from dispossessing the plaintiff forcefully, changing the nature and character, alienation in respect of the suit property.

DECISION WITH REASONS

After considering the situation and the documents, this court is of the opinion that the schedule suit property is an unpartitioned one and undemarcated one. Both the parties are the co-sharers of the suit property.

At this stage the plaintiff has able to show a good prima facie case in its favour having its merits to go into the trial and the balance of convenience and inconvenience is lying in favour of the plaintiffs. If an ad interim order is not passed at this stage, it may cause irreparable loss to the plaintiff and the purpose of granting injunction may be defeated by delay.

Thus, considering the above facts this Court is of the opinion that the ad interim is allowed in the form of status quo thereby directing both the parties to maintain status quo in respect of the suit property. Such status quo is necessary to protect the property and for the ends of justice.

Hence, it is

O R D E R E D

That the present application U/O 39 Rule 1 and 2 read with section 151 CPC for ad interim injunction be and the same is hereby allowed at this stage in the form of status quo.

Both the parties are hereby directed to maintain status quo with regard to the nature, character and activities as on this day in respect of the schedule suit property.

So the ad interim is allowed till **04.10.2024** in the form of status quo.

Issue notice upon the defendant to call upon them to show cause within 15 days from the receipt of such notice as to why the prayer of the plaintiffs for an order of temporary injunction shall not be granted.

Plaintiff is directed to comply with the provisions of Order 39 Rule 3(a) and (b) of C.P.C and furnish to the defendant Nos. 1 & 2:

1. a copy of the injunction application;
2. a copy of the affidavit filed in support of the temporary injunction application;
3. a copy of the plaint;
4. copies of documents on which the plaintiffs relies and
5. an affidavit stating that the copies stated above have been so delivered or sent.

Strict compliance of the above to be made i.d. The interim order shall be vacated.

Requisites at once.

Original documents were duly returned.

D/c by me

CJ

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