

**Title Suit No. 95 of 2023**

**Order No.9 dated 20.04.2024**

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.

Defendants filed hazira along with an adjournment petition for filing WS which is allowed on the ground stated therein.

Government defendant No. 7 filed hazira.

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

Heard the Ld. Advocate of the plaintiffs who submitted that the plaintiffs have exclusive right, title and interest in the suit property as described in the schedule 'A' & 'B' of the plaint. The plaintiffs have contended that they have acquired interest in the suit property by way of inheritance from their predecessors. Ld. Advocate submitted that till recently the plaintiffs were in peaceful possession of the suit property. However, recently the defendant Nos.1 to 4 have been disturbing the peaceful possession of the plaintiffs in the suit property. Ld. Advocate further submitted that when the plaintiffs tried to raise construction on the suit property which is in their possession, the said defendants gave strong resistance as a result of which the plaintiffs could not proceed further with their planned construction. Ld. Advocate further submitted that the plaintiffs have undertaken construction activity on the suit property only after obtaining necessary permission and sanction plan from the local Gram Panchayat. Despite this defendant Nos.1 to 4 have been forcibly preventing the plaintiffs from completing the construction work started by them on the suit property. Ld. Advocate of the plaintiffs thus submitted that the plaintiffs have been for the aforesaid reasons compelled to file the present suit against the said defendants in order to protect their right, title, interest in the schedule suit property. He, therefore, prayed for an order of temporary injunction against the defendant Nos.1 to 4 restraining them from forcibly preventing the plaintiffs from completing the construction work started by them on the suit property besides also restraining them from disturbing the peaceful possession of the plaintiffs in the suit property.

Ld. Advocate for the defendant raised vehement objection stating that admittedly the defendants do not have any right, title and interest in the suit property, but it is also to be mentioned here that the plaintiff is not the sole owner of the suit property as there are other co-sharers also. The defendants are not committing any illegal activities rather the plaintiffs while making construction are encroaching the portion of the defendants. The plaintiff is trying to construct by encroaching the western side of plot No. 969 which belongs to the defendants. The plaintiff is also trying to raise construction on plot No. 970 which is a mandir but when resisted by the local people the plaintiff filed this suit and tried to obtain an order of injunction for construction of the illegal building by showing another plot.

Heard. Considered.

After perusal of the materials and documents on record it is found out that the defendant has admitted that they do not have any right, title and interest on the suit property. On the basis of the record of rights it is seen that the plaintiffs have the definite 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 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.

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. The defendants are hereby restrained from trespassing into the schedule suit property and disturbing the peaceful possession of the plaintiff till the disposal of the suit. As regards the construction over the suit property it will be decided after going into the merits of the case and taking evidences.

To 10.05.2024 for filing of WS by defendant Nos. 1 to 4 positively.  
D/c by me

CJ

Civil Judge (Jr Divn)  
Amta, Howrah