

In the Court of Ld. Civil Judge(Jr. Divn.),Amta Howrah

Title Suit 98 of 2023

Present : Smt. Sonia Saraf, Civil Judge(Jr. Divn.), Amta Howrah

Kanai Samanta Plaintiff

- Vs

Bonomali Samanta and Ors. Defendants

Order dated 17.07.2023

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 plaintiff 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 permanent injunction.

:- Case of the plaintiff :-

The case of the plaintiff in a nutshell is that the suit property belonged to one Gour Mohan Samanta the predecessor of the plaintiff and the defendants. The suit property is an undivided and demarcated one. The plaintiff is a co-sharer along with the defendants in respect of the suit property. By virtue of the gift and inheritance the plaintiff became the owner of the half share in the suit property on 05.06.2023 defendant No.1 tried to grab more than his share of the suit property and threatened the plaintiff with filthy languages. Hence the plaintiff have come before the Court with folded hands for grant of temporary injunction by restraining the defendant No.1 and their men and agents from creating any disturbance in the peaceful possession and cultivation of the plaintiff, changing the nature and character, dispossessing the plaintiff in respect of the suit property.

DECISION WITH REASONS

After perusal of the documents and materials on record, it is found out that the plaintiff is the co-sharer of the schedule suit property which is an undemarcated and unpartitioned one. So, he is able to prove his possession and ownership. So, the Court is of the opinion that the prima facie case has been

cropped up and at this stage having its merits to go into the trial and the balance of convenience and inconvenience is lying in favour of the plaintiff. 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. So for the ends of justice ad interim injunction is allowed.

Thus, considering the above facts this Court is of the opinion to allow the instant prayer of the plaintiff at this stage without hearing the defendant.

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.

The defendants are hereby restrained from disturbing the peaceful possession of the plaintiff in respect of the suit property and also from changing the nature and character of the same.

So the ad interim is allowed till **17.08.2023**.

Issue notice upon the defendant No.1 to call upon them to show cause within 15 days from the receipt of such notice as to why the prayer of the plaintiff 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 No.1:

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 plaintiff 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**