

Title Suit No. 128 of 2021

Order No.18 dated 26.09.2023

Today is fixed for hearing of the injunction application u/Or 39 r 1 & 2 read with Section 151 of CPC as well as submission of Commission Report.

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

Defendant Nos.1 to 3 filed hazira.

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

Heard the Ld. Advocate of the plaintiffs who submitted that the plaintiffs are co-sharers in respect of the suit property, as described in the schedule of the plaint, along with the defendants. Ld. Advocate also submitted that the plaintiffs have acquired undivided share in the schedule property by way of purchase vide register sale deed nos. 6139/2021 & 6614/2021. Ld. Advocate further submitted that the defendant Nos. 1 to 3 have also acquired undivided interest in the suit property vide separate sale deed of their own. Ld. Advocate further submitted that the suit property is yet to be partitioned by metes and bounds between the aforesaid co-sharers. It is the case of the plaintiffs that on and from 15.12.2021 the defendant Nos. 1 to 3 have been creating obstruction in the peaceful enjoyment of the share of the plaintiffs in the suit property. In fact, on and from 15.12.2021 the defendant Nos. 1 to 3 have constantly attempted to change the nature and character of the suit property described in the schedule of the plaint even though the suit property is yet to be partitioned by metes and bounds between the parties. When the plaintiffs prevented defendant Nos.1 to 3 from doing so, the said defendants threatened the plaintiffs with dire consequences. In fact, the defendant Nos. 1 to 3 have continued to make repeated attempts to change the nature and character of the suit property on several occasions with the intention of raising illegal construction on the same. In addition to this they have also threatened the plaintiffs that they will forcibly dispossess the plaintiffs from the suit property. Ld. Advocate of the plaintiffs thus submitted that the plaintiffs were for the aforesaid reasons compelled to file the present suit against the said defendants in order to protect his right, title, interest in the suit property which is a joint property. He, therefore, prayed for an order of ad interim injunction against the defendant Nos. 1 to 3 restraining them from forcibly dispossessing the plaintiffs from the suit property as well as from changing the nature and character of the suit property in any manner by making any kind of construction over any portion of the same.

Ld. Advocate for the defendant No. 1 to 3 stated that the order of ad interim injunction passed in the form of status quo should be made absolute till the disposal of the suit as he has no objection and as such gave the consent.

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Heard. Considered.

From the documents it is clear that the possession of the schedule suit property is with the plaintiff.

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, activities and possession 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 plaintiffs and defendant Nos. 1 to 3 are hereby directed to maintain status quo with regard to nature, character, activities and possession 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 summons have not been duly served upon defendant Nos. 6 to 10. Plaintiff is directed to take fresh step on defendant Nos. 6 to 10. Summons have duly been served upon defendant Nos. 4 & 5.

To **29.11.2023** for appearance of defendant Nos. 4 & 5 and fresh step upon defendant Nos. 6 to 10.

D/c by me

CJ

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