

Title Suit – 138 / 2019 (C.I.S. 138 / 2019)
(C.N.R. WBHW07- 000 179 - 2019)

Order No. 16 dated 03.12.2022

Today is fixed for S.R. appearance of defendant Nos. 19 to 21 as well as hearing of the temporary injunction application.

No S.R. has been submitted regarding defendant Nos. 19 to 21.

Accordingly the plaintiffs are directed to take fresh step regarding defendant Nos. 19 to 21.

Both parties are present.

Accordingly the application for temporary injunction is taken up for hearing.

Heard the Ld. Advocate of the parties at length.

Perused the application for temporary injunction, written objection thereto as well as the respective pleadings of the parties and the documents they have relied upon.

Considered.

From the material garnered on record it is forthcoming that the 'Ka' schedule property of the plaint it is a suit property herein, originally belonged to Nilkamal Bag who was the predecessor of the parties to this suit. Upon his death, the suit property has been inherited by the parties to this suit as his legal heirs. It is the contention of the plaintiffs that the suit property is a joint property in which they have 1/4th share. The plaintiffs have also claimed that the suit property is yet to be partitioned by metes and bounds. Despite this, the defendants are threatening to change the nature and character of the suit property by attempting to make construction on the best portion of the same. Though this matter was reported to the local P.S. yet, no action was taken for which reason the plaintiffs were compelled to file the present suit seeking the relief of declaration of their shares as well as partition of the suit property by metes and bounds. The defendants have strongly opposed the application for temporary injunction on the ground that the claims made by the plaintiffs therein are completely false and baseless. They have further denied that the suit property is a joint property or that the plaintiffs have 1/4th share in the same. They also denied that they attempted to make construction on any portion of the suit property.

After taking into account, the claims made by the parties in relation to the suit property, it is the considered view of this Court that those claims can only be adjudicated upon at the time of trial by taking cogent evidence from either side. It is imperative that till the conclusion of the trial of this suit, the suit property needs to be preserved and the interest of the parties wherein needs to be protected. For this reason, this Court is inclined to allow the application for temporary injunction more so in view of the fact that, a prima facie case has been made out by the plaintiffs which is supported by the documents furnished from their side. The balance of convenience and inconvenience is also found to lean in favour of passing an order of temporary injunction with the objective of preserving the suit property as well as the rights of the respective parties in the same.

Hence it is,

ORDERED

That the application for temporary injunction filed by the plaintiffs under order 39 Rules 1 & 2 C.P.C. is hereby allowed on contest.

Both parties are directed to maintain status quo with regard to the nature, character and their respective possession in the suit property till the final adjudication of this suit.

The application for temporary injunction stands accordingly disposed of.
To 04.03.2023 for S.R. / Appearance of defendant Nos. 19 to 21 as well as
fresh step by the plaintiff in this regard.
D/C by me

C. J. (Jr. Divn.)
Amta, Howrah
(JO Code WB 01195)

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