

Title Suit 164 of 2023

Order No. 2 dated 15.01.2024

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

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 defendants 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 and injunction.

-: Case of the plaintiff :-

The case of the plaintiff in a nutshell is that the plaintiff is the owner of the "Ka" schedule suit property and the "Kha" schedule is the piece and parcel of the Ka schedule suit property. Now the defendants are trying to raise construction by encroaching the Kha schedule suit property. Hence the plaintiff has come before the Court with folded hands for grant of temporary injunction by restraining the defendants from disturbing the peaceful possession of the plaintiffs and also from changing the nature and character in respect of the schedule suit property.

DECISION WITH REASONS

Now, the Court has to decide whether on the basis of the documents submitted by the plaintiff as well as from the verbal submission of the Ld. Advocate this Court can grant an ex parte order of ad interim injunction in favour of the plaintiff or not.

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 submitted by the plaintiff, this Court is of the opinion that at this stage without hearing the defendants a blanket order of ad interim injunction cannot be granted to the plaintiff. Therefore, this Court, standing upon the situation and considering the facts and circumstances, holds that the balance of convenience and inconvenience does not weigh in favour of the plaintiff. Further the Court thinks that without the order of

injunction the plaintiff shall not suffer irreparable loss and injury. In view of the above circumstances prayer for ad-interim injunction is refused at this stage.

Hence it is,

ORDERED

that the ad-interim injunction as prayed for is hereby refused.

Issue notice upon the defendants by calling him to file show-cause within **15 days** on receipt of this notice as to why temporary injunction shall not be granted as per prayer of the plaintiff.

D/c by me

CJ

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