

T.S. 577 of 2022
(C.N.R. no. WBWM02-000811-2022)
(I.A. no. 01/2022)

Order no. 02 dated 03/11/2022:

The record is put up today on the prayer of the plaintiff who prays for moving the petition U/o 39 R 1 & 2 of CPC for ad-interim order citing urgency. Let the said petition be registered as IA no. 01/2022 of this suit.

No caveat has been filed as per the report of the Sherestadar.

Considering the urgency of the matter, the petition is taken up for hearing.

The plaintiffs' case, is that the suit properties as described in the schedule Ka of the instant petition originally belonged to one Alauddin Sheikh Nur Mohammad and Akhtaruddin. Subsequently, the plaintiff nos. 2 and 3 purchased 12 decimals of land in the Schedule Ka property from Akhtaruddin. Thereafter, the plaintiff no. 1 purchased 8 decimals of land in the Schedule Ka property from Alauddin Sheikh Nur Mohammad. Thus, the plaintiffs became the co sharers of 20 decimals of land in Schedule Ka property, which is more particularly described in Schedule Kha of the instant petition. The defendants are the co sharers of the rest of Schedule Ka property. But now the defendants are trying to change the nature and character of the Schedule Kha property without the consent of the plaintiffs and are also trying to dispossess the plaintiffs from Schedule Kha property illegally and forcibly. Hence, the plaintiffs have filed the instant petition.

Perused the petition and the documents filed therewith.

Heard Ld. Advocate for the plaintiffs.

On perusal of the Records of Rights, Deed No. 01155 of 2013, 3607 of 1987 and other documents, I have no hesitation to hold at this stage that the plaintiffs are the co-sharers of the suit property along with the defendants and that they have both the documents of title and possession of the suit property. Accordingly, I think that the plaintiffs are entitled to protect their possession and interest in the suit property. Hence, I find that the plaintiffs have a good prima facie case on their behalf at this stage. I also think that if the defendants are allowed to change the nature and character of Schedule Kha property without the consent of the plaintiffs and also to dispossess the plaintiffs therefrom illegally and forcibly, then the plaintiffs will suffer from greater inconvenience than the defendants. Therefore, the balance of convenience is in favour of the plaintiffs at this stage. I further think that if the defendants are not restrained at this stage, then the plaintiffs will suffer from irreparable loss and injury. Considering the facts and circumstances of the case, I think that the ends of justice shall be served

(Contd.....)

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if both the plaintiffs and the defendants are directed to maintain status-quo regarding the nature, character and possession of the Schedule Kha property as on date.

Hence, it is,

ORDERED

that both the plaintiffs and the defendants are directed to maintain status-quo regarding the nature, character and possession of the Schedule Kha property as on date, till 17/11/2022.

The plaintiffs are directed to comply the provisions of Order 39 R 3a & 3b & submit the Affidavit of service latest by tomorrow.

To **17/11/2022** for S/R and appearance of the defendant and showing cause as to why the ad-interim order shall not be made absolute till the disposal of the suit.

D/C

Civil Judge (Senior Division),
1st Court, Sadar,
Paschim Medinipur.
(J.O. Code WB00816)

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