

| **In the Court of Civil Judge (Jr. Divn.) 3 rd Court, Baruipur**
Present: Debasmita Kundu
Civil Judge (Jr. Divn.)
J.O. Code: WB1404
T.S. 683 of 2022
CNR No. WBSPOE-000 943-2022

Order No. 02, Date: 30.09.2022.

A put-up petition is filed by the Plaintiffs for the reasons stated therein.

Heard. Perused. Considered and **allowed.**

The Ld. Adv. for the Plaintiffs filed an application for injunction today along with another petition praying for hearing of U/O 39 rule 1(a)(b)(c) r/w Section 151 of CPC application at this stage. The Ld. Adv. for the Plaintiff submits that hearing of ad interim injunction application is very urgent at this stage; otherwise the Plaintiff may suffer irreparable loss and injury.

Heard. Perused. Considered. **Allowed.**

Now, record is taken up for hearing the ad interim injunction application under Order XXXIX Rule 1(a)(b)(c) read with section 151 of the Code of Civil Procedure. The Ld. Adv. for the Plaintiff side submits that hearing of ad interim injunction application is very urgent at this stage; otherwise the Plaintiff side may suffer irreparable loss and injury.

As per report of the Sheristadar no caveat is pending as on this date.

Heard the Ld. Adv. for the Plaintiff side. Perused the plaint, application for temporary injunction under Order XXXIX Rule 1(a)(b)(c) read with section 151 of the Code of Civil Procedure and other materials available in the record. Considered.

This is a suit for declaration of title, permanent injunction and consequential reliefs.

The Plaintiff side by filing the injunction application and by filing supporting documents stating that they have a good prima facie case. Though it is a good prima facie to go into the trial and also they have filed some documents in support of their title and possession at this stage to prove the urgency to allow restraining order against the Defendants at this prima-facie stage. From the averments made in the plaint and from the documents filed herewith it appears that the reason or urgency for which the Plaintiff side has constrained to pray for the injunction against the Defendants at this stage is not so clear. Moreover, it appears from the record that there is a huge problem regarding the possession of the parties. At this situation no presumption with regard to the possession of the parties can be ascertained at this stage. The dispute as mentioned in the plaint is of such a nature that without having heard the side of the defendants, there is no scope to identify the dispute properly at this prima-facie stage.

Considering the facts and circumstances, the Court is of the opinion that the balance of convenience and inconvenience is not in favour of the Plaintiff side at this stage. So, that I do not find it proper and necessary to pass any restraining order at this pre-trial stage without giving any opportunity of being heard to the Defendants.

Accordingly, I am not inclined to pass any restraining order against the Defendants in favour of the Plaintiff side at this stage.

Hence, it is,

ORDERED

that the prayer for ad interim injunction under Order XXXIX Rule 1 (a) (b) (c) read with section 151 of Code of Code of Civil Procedure is considered and refused without costs at this stage.

The Defendants are directed to show cause within 15 days from the date of receipt of the notice as to why the Plaintiffs' prayer of temporary injunction shall not be allowed against the Defendants.

Issue notice upon the Defendants at once.

To date (30.01.2023)

D/C by me:

Sd/- (D. Kundu)

Civil Judge (Jr. Divn.) 1st Court
Baruipur, South 24-Parganas,
30.09.2022

Sd/- (D. Kundu)

Civil Judge (Jr. Divn.) 1st Court
Baruipur, South 24-Parganas,
J.O.Code: WB1404