

T.S. 688/2022
CNR No. WBSP0E000-960-2022

Later:

Order No.01, Dated 30.09.2022:

Ld. Counsel for the plaintiffs moves a petition under Order XXXIX Rule 1 & 2 for hearing of ad-interim injunction petition urging urgency.

The said petition is moved.

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

No caveat is pending as per report of the Sheristadar.

It is, inter alia stated by the plaintiffs that 13.2 decimals of land in suit dag originally belonged to Ajit Kumar Mriddya and his name was recorded in the RSROR of Khatian No. 104. Ajit Kumar Mriddya transferred 12 decimals out of 13.2 decimals in the suit dag in favour of Phani Bhusan Naskar vide sale deed 376/1989. Subsequently, Ajit Kumar Mriddya transferred the remaining 1.2 decimals out of 13.2 decimals in the suit dag in favour of plaintiff No. 1 i.e. the wife of Phani Bhusan Naskar vide sale deed 559/1996. After the demise of Phani Bhusan Naskar, the plaintiffs became his legal heirs and absolute owners of the suit property. The plaintiffs are in possession over the suit property and regularly paid taxes. It is alleged that the defendants are strangers to the suit property and are trying to encroach upon the same. On 30.08.2022 the defendants collected raw materials for raising construction over the suit property. As such, the cause of action arose and having no other alternative the plaintiffs have come up before this court and have instituted this case and now praying for ad interim injunction against the Defendants.

Hd. Ld. Counsel appearing on behalf of the plaintiffs.

Perused the petition U/O39 R(1) & (2) read with Sec 151 of CPC supported by an Affidavit along with the relevant documents, which had been filed by the plaintiff, in support of their contention.

Considering the above facts and circumstances, and on perusal of the documents and the plaint, I am of the opinion that the plaintiffs have a prima facie case to go for trial. The plaintiffs have filed certified copy of deed No. 559/1996, 376/1989, certified copy of LRROR of Khatian No. 1083, 1084, 1085 & 1086, GDE being No. 1874 dated 30.08.2022 and Khajna Dakhila receipt in favour of their case. The plaintiffs allege that the defendants are creating a cloud over their title and such issue can be only decided by a full fledged trial. Beside that, the plaintiffs are alleging that the defendants are disturbing the peaceful possession of the plaintiffs, so if time is consumed in serving the notice to the defendants and no interim order is passed in the meantime, then the whole trial might become infructuous and the suit property cannot be preserved. If no form of interim order in the form of restraining order is passed as of now, then, the plaintiffs may suffer irreparable loss and injury which may not be compensated later on.

In view of the above discussion, prayer for ad-interim injunction is considered and allowed in the form of restrain order.

Issue notice upon the Defendant Nos. 1-3 calling upon them to show-cause within ten days from the date of receipt of this order as to why temporary injunction shall not be granted as per prayer of the plaintiffs.

Hence, it is

Ordered

that the ad-interim prayer of the plaintiffs are considered and allowed without any order as to costs considering the pleading of urgency.

That the Defendant Nos. 1-3 are directed not to disturb the peaceful possession of the plaintiffs over the suit property till 30.11.2022 (due to ensuing Puja vacation).

Plaintiffs to comply the provision U/O 39 R3(a) and 3(b) at once.

To date for S/R and A/D.

Dict. & Corrected

Sd/-(S. Kishwar)
Civil Judge (Jr. Divn.), 3rd Court
Baruipur, South 24-Parganas

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JO Code- WB01477

