

T.S. 716 of 2022
CNR No. WBSP0E0010012022

Order No.02, Dated 10.11.2022

Record is put up today on the prayer of the plaintiff for considering prayer of ad interim injunction as Ld. Counsel for the plaintiff pleads urgency.

The said petition is moved.

This is a suit for declaration and permanent injunction.

No caveat is pending as per report of the Sheristadar.

It is, inter alia, stated by the plaintiff that she purchased 'A plot' from some Pratima Chowdhury, by dint of a registered deed of sale being no. 1850/1995 and obtained the right to use the common passage mentioned as the schedule suit property. Said Pratima Chowdhury acquired 4 plots being A, B, C, D by dint of registered deed of sale, executed by Monorama Sinha in 1975. The principal defendants have no right, title and interest in respect of the schedule property of the plaintiff, but they are trying to encroach the suit passage illegally for making construction. As such, the cause of action arose and having no other alternative the plaintiff has come up before this court and has instituted this case and now praying for ad interim injunction against the principal defendants.

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

Perused the petition U/O XXXIX 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 his contention.

Considering the above facts and circumstances, and on perusal of the documents and the plaint, it appears that the plaintiff has a prima facie case to go for trial. She has filed xerox copy of partition decree along with certified copy of deed being no. 784/1975 and original deed of sale being no. 1805/1995, certified copy of LRROR, plot information and Xerox copies of land revenue receipts, tax receipts, in support of his prima facie case. Whether the defendants are unlawfully causing any obstruction to the suit passage, is subject matter of trial. But considering the status of the passage being common and the need to preserve the same, an interim order is necessary. If time is consumed in serving the notices to the principal defendants and in the meantime no interim order is passed in the form of status quo to preserve the subject matter in dispute, then the whole trial might become infructuous and the plaintiff may also suffer irreparable loss and injury.

Issue notices upon the principal defendants, calling upon them to show-cause within fifteen days from the date of receipt of this order as to why temporary injunction shall not be granted as per prayer of the plaintiff.

Hence, it is

Ordered

that the ad-interim prayer of the plaintiff is considered and allowed ex parte without any order as to costs considering the pleading of urgency.

That **both the plaintiff and the principal defendants are directed to maintain status quo in regard to the nature, character and possession of the schedule suit property, as it stands today, till 24.01.2023.**

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

To date.

D/C by

sd/-

SUNITA SAHA
Civil Judge (Jr. Divn.), 2nd Court
Baruipur, South 24-Parganas

sd/-

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Civil Judge (Jr. Divn.), 2nd Court
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