

T.S. 725/2022

CNR No. WBSP0E000-1017-2022

Order No.02, Dated 16.11.2022:

The record is taken up by way of put up petition being allowed wherein the Ld. Counsel for the plaintiff 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 deed as void, permanent injunction and other consequential reliefs.

No caveat is pending as per report of the Sheristadar.

It is, inter alia stated by the plaintiff that the suit property originally belonged to Kanchan Kumar Peyada. Kanchan Kumar Peyada transferred the suit property in favour of the plaintiff vide sale deed being No. 1605 of 1994. The plaintiff is in possession of the suit property. The plaintiff's name is also recorded in the LRROR of Khatian No. 1041. The plaintiff is an illiterate lady and the predecessor of the defendant misrepresented the plaintiff to execute a power of attorney in their favour to look after the suit property. But instead they misrepresented the plaintiff in executing a gift deed in their favour (described in the Kha schedule). Now the defendant is threatening the plaintiff of dispossession. The plaintiff claims that she has never executed any such deed and the impugned deed is vitiated by fraud. As such, the cause of action arose on 12.11.2022 when the defendants tried to dispossess the plaintiff 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 Defendants.

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

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 her contention.

Considering the above facts and circumstances, and on perusal of the documents and the plaint, I am of the opinion that the plaintiff has a prima facie case to go for trial. The plaintiff has filed the original sale deed No. 1605/1994, certified copy of deed No. 2014/2014, photocopy of LRROR of Khatian No.1041 and panchayet tax receipt to establish her case. The plaintiff is alleging that she has not executed the impugned deed and the same is vitiated by fraud. Beside that, the plaintiff is alleging that the Defendants are creating continuous cloud over his title, 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 plaintiff 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 Defendants 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 plaintiff.

Hence, it is

Ordered

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

That the Defendant Nos. 1 & 6 are directed not to dispossess the plaintiff from the suit property and not to create any third party interest over the suit property till 15.12.2022 .

plaintiff 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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