

Misc. Case (Pre-emption) 70/2022

(CNR no. WBSP0E000 944 2022)

J.O. No. WB01333

Order No.02, Dated 05.11.2022

Record is put up today on the prayer of the petitioner for hearing ad-interim injunction petition, urging urgency.

The said petition is moved.

This is a Misc. Case institute u/s 8 of the West Bengal Land Reforms Act.

No caveat is pending as per report of the Sheristadar.

It is, inter alia, stated by the petitioner that the schedule property was previously the property of Jamauddin Molla who sold and transferred the same to Amir Ali Sk. By dint of a registered deed of sale being no. 22 of 1988. Subsequently, said Amir Ali Sk. further transferred same to Seher Ali Sardar by virtue of a registered deed of sale being no. 645 of 1993. The said Seher Ali Sardar sold and transferred the schedule property to the opposite party by dint of registered deed of sale being no. 10425 of 2022. The petitioner is the adjoining land owner who has not been notified about the sell. As, being a non-notified adjoining plot holder the petitioner had instituted this Misc. Case u/s 8 of the West Bengal Land Reforms Act against the O.P. and in the meantime praying for an ad interim injunction against the said O.P, pleading urgency.

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

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 petitioner, in support of her contention.

Considering the averments stated in the application u/s 8 of the West Bengal Land Reforms Act and the documents filed by the petitioner, specifically the certified copy of impugned deed being No. 10425 of 2022 (boundaries specified in the schedule) and LRROR, it prima facie appears that the petitioner is an adjoining plot owner, who is alleging that he had not been notified, about the impugned sale, by virtue of which the opposite party acquired interest in the schedule property. The merit of the application of the petitioner is a subject matter of trial and recording of evidences. However, if time is consumed in serving the notice to the O.P. and no interim injunction is passed as of now, so as to preserve the subject matter of the case, and any third party interest is created in the meantime, then it may give rise to multiplicity of proceedings and the petitioner may also suffer any irreparable loss and injury.

In the light of the above discussion, a restraining order is appropriate for preserving the schedule property.

Issue notice upon the O.P. calling upon him 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 petitioner.

Hence, it is

Ordered

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

Opposite Party is restrained from creating any third party interest in respect of the schedule property on the basis of the impugned deed No. 10425 of 2022 till 02.12.2022.

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

To date for S/R and A/D.

D & C by

sd/-

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

sd/-

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Baruipur, South 24-Parganas