

T. S. 305 of 2022Order dated 17.11.2022 (Latter)

The plaintiff has filed a petition U/O 39 rule 1 & 2 read with Sec. 151 C.P.C. and has prayed for an order of interim injunction. Perused the note of the office which shows that no caveat is filed.

Perused the injunction application, plaint and the documents filed by the plaintiff.

Heard the Ld. Lawyer for the plaintiff.

The plaintiff's case as stated in the plaint and injunction application is that the plaintiff is the lawful monthly tenant under the defendants for commercial purpose in respect of the suit property. The father of the plaintiff died on 03.11.2022 and after his death the plaintiff inherited the tenancy right in respect of the suit property. But dispute cropped up as the defendants are trying to dispossess the plaintiff from the suit property illegally without due course of law for which the plaintiff has filed the instant suit and has prayed for ad-interim injunction against the defendants.

I have heard the learned advocate appearing for the plaintiff and perused the application and the document available on the record.

It is settled principle of law in granting the temporary injunction the Ld. Court must be satisfied that the applicant has a prima facie case to go to trial and that protection is necessary from that species of injury known as irreparable loss and that the mischief or inconvenience likely to arise from withholding injunction will be greater than is likely to arise from granting it. The instant suit is a suit praying for declaration and other ancillary relief.

I am of the considered opinion that there is a prima facie case in favour of the plaintiff and if the injunction is not granted then the property may be alienated. At this stage the suit property should be protected in default there may be a multiplicity of the suit and further if the injunction is not granted, the plaintiff would sustain an irreparable loss. In my view the balance of convenience and inconvenience also lies in favour of the plaintiff at this stage.

Considering the facts and circumstances, I am in opinion that if the status quo order is granted then neither party will be prejudiced.

Hence, it is

O R D E R E D

that both the plaintiff and defendants are hereby directed to maintain status quo over the suit property as mentioned in the schedule of the plaint and injunction application in respect of nature, character and possession of the same as on this date, till next date.

Plaintiff is directed to comply the provisions of order 39 rule 3 (a) (b) CPC.

Requisite at once.

To 22.12.2022 SR.

Dic & corr. by me

Civil Judge (Sr. Divn.), Sealdah

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