

T. S. 308 of 2022Order No. 2 dated 21.11.2022

Record is placed on the basis of put up. 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 ad-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 plaintiff and his two brothers are joint owner of the suit property and the said two brothers of the plaintiff executed power of attorney in favour of the plaintiff for running the business in the suit property. Plaintiff has obtained all necessary documents in running the said business and has got electricity connection in his name. Defendants are the distance related nephew of the plaintiff and the said defendants are trying to put pressure upon the plaintiff to sell out the suit property and the business in favour of the defendants and also trying to disturb the peaceful possession and lawful enjoyment of the suit property and running of business by the plaintiff in the suit property. Plaintiff's further case is that the defendants have no right, title and interest over the suit property and such act of the defendant is nothing but illegal and detrimental to the lawful occupation and peaceful enjoyment of the suit property by the plaintiff and as such 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 plaintiffs 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 the plaintiff is entitled to get an order of injunction as prayed for.

Hence, it is

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defendants and their men and agents are hereby restrained from creating any disturbance to the peaceful possession and enjoyment of the plaintiff over the the suit property as mentioned in the schedule of the plaint and injunction application 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 23.12.2022 SR.

Dic & corr. by me

Civil Judge (Sr. Divn.), Sealdah

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