

T. S. 306 of 2022Order dated 17.11.2022 (Latter)

The plaintiffs have filed a petition U/O 39 rule 1 & 2 read with Sec. 151 C.P.C. and have 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 plaintiffs.

Heard the Ld. Lawyer for the plaintiffs.

The plaintiff's case as stated in the plaint and injunction application is that the defendant no. 3 to 6 are the owners of the A schedule property. A development agreement was made between the defendant no. 2 with the defendant no. 3 to 6 for developing the A schedule property. Plaintiffs are in occupation of the schedule – B property. But the defendants are trying to illegally evict the plaintiffs from the schedule – B property for which the plaintiff have filed the instant suit and have 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.

I have heard the learned advocate appearing for the plaintiffs 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 plaintiffs 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 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 plaintiffs and defendants are hereby directed to maintain status quo over the suit properties as mentioned in the schedule – A and B, of the plaint and injunction application in respect of nature, character and possession of the same as on this date, till next date.

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

Requisite at once.

To 17.12.2022 SR.

Dic & corr. by me

Civil Judge (Sr. Divn.), Sealdah

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