

P.S. 474 of 2021
CNR No. WBMD06-000546-2021

Order No. 02 / Dated:- 15.12.2021.

Record is put up on prayer of the Plaintiff.

Plaintiff files the petitions under Order 6 Rule 17 C.P.C for amendment of Plaint and a petition u/s. 153 CPC for amendment of temporary injunction petition. Plaintiff moves the petitions.

Heard.

It is stated by the Plaintiff that he filed the present suit for partition and during the drafting of the Plaint, mistake occurred in the schedule of the suit property in the Plaint and also in the petition for Temporary Injunction and it is necessary to rectify the same or else the Plaintiff will be highly prejudiced. Perused the record.

It appears that vide the amendment the Plaintiff seek to correct the mistakes and the same is formal in nature and will not prejudice the Defendants and it will not change the nature and character of this suit. For proper and final adjudication of the suit the proposed amendment in the plaint necessary. Hence, it is,

ORDERED

that the petition under Order 6 Rule 17 CPC and the petitions u/s. 153 CPC filed by the Plaintiff today are hereby allowed.

Let the Plaint and Temporary Injunction Petition be amended accordingly.

Later:-

The Plaintiff moves the petition under O-39 R 1&2 read with Sec-151 CPC on ground of urgency.

The Plaintiff moves the petition under O-39 R 1&2 read with Sec-151 CPC.

Heard Ld. Advocate for the Plaintiff.

Issue notice upon the Principal Defendants directing them to show-cause within 15 days of receiving the same as to why the Plaintiff's prayer for temporary injunction shall not be granted.

As per endorsement of Sheristadar, no caveat is pending.

The Plaintiff's case is that Madan Kumar Saha, Sishir Kumar Saha, the Plaintiff i.e. Anil Kumar Saha and Niru Kumar Saha acquired 7 dec land of suit plot no. 10/26 from Government of West Bengal by way of Patta. Thus, the Plaintiff became owner of suit plot no. 10/26 by way of Patta. Nandarani Saha had 30 dec land in the suit property and on her death, it devolved upon the Defendants No. 5, Sishik Kumar Saha, Plaintiff, Niranjan Saha and Mallika Pal. Thus, the Plaintiff became owner of 2.5 dec land in suit plot no. 30. In this manner, Plaintiff has 4.5 dec land in the suit property and his name is recorded in LRROR. The rest property belongs to the Principal Defendants. The suit property is an ejmali property and the parties are co-sharers. Now the Principal Defendants are threatening to raise new construction over the best portion of the suit property on more than their share and also threatening to dispossess the Plaintiff and also threatening to transfer the suit property. If the Principal Defendants are successful in their efforts, the Plaintiff will suffer irreparable loss and injury. Accordingly, the Plaintiff has prayed for passing an order of ad-interim injunction against the Principal Defendants.

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Perused the Patta and the LRROR as also LR Plot Information. This is a suit for partition of ejmali property and the Plaintiff prima facie appears to be a co sharer. It is alleged by the Plaintiff that the Principal Defendants are threatening to raise new construction over the best portion of the suit property on more than their share and also threatening to dispossess the Plaintiff. Considering the above aspects, I think that the Plaintiff has prima facie case and will suffer irreparable loss and injury if the Principal Defendants are successful in their efforts. There is a necessity and urgency to preserve the suit property or else multiplicity suits will arise. Hence, it is,

ORDERED

that the Plaintiff and the Principal Defendants are directed to maintain status quo in respect of the nature, character and possession over the suit property till 02.02.2022.

The Plaintiff is directed to comply with the provisions laid down under O-39 R 3(a) and (b) CPC at once.

Dictated & Corrected by me.

C.J (Sr. Divn.), Lalbagh,Msd.
J.O. Code – WB1116.

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