

P.S. 24 of 2024
CNR No. WBMD06-000025-2024

Order No. 02 / Dated 15.01.2024:-

The record is taken up for hearing of the petition under O-39 R 1&2 read with Sec-151 CPC on submission of the plaintiff.

Heard Learned Advocate for the Plaintiff.

Issue notice upon the Defendant nos. 1-3 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 Plaintiffs' case is that one Sudhakar Pramanik and Anukul Pramanik were the owners in respect of 4 decimals in the suit plot no. 8040. RSROR got recorded in their names accordingly. On the demise of the said Anukul Pramanik, his share devolved upon his wife- Shibu Dasi, 4 sons – plaintiff, Biswanath Pramanik, Nanda Pramanik, Probodh Pramanik and 3 daughters – Basanti sarkar, Gitarani Chowdhury and Jayanti Pramanik. The said Nanda Pramanik, Probodh Pramanik, Shibu Dasi, Basanti Sarkar, Gitarani Chowdhury and Jayanti Pramanik transferred their shares in the suit plot no. 8040 to the plaintiff and Biswanath Pramanik, by way of heba. The said Biswanath Pramanik, in turn, transferred her share to the plaintiff by way of heba. In this way, the plaintiff acquired 8 annas share in the suit plot no. 8040. The defendants are claiming to be the owners of the rest portion in the suit property. The suit plot no. 8040 is an ejmali property and has not been partitioned yet. As the defendant nos. 1-3 are trying to make construction over the best portion in the suit property, facing difficulty in enjoying the suit property in ejmali, the Plaintiff approached the defendant nos.1-3 for amicable partition of the suit property, but in vain. In case, the defendant nos.1-3 get successful in their effort, it will cause irreparable loss and injury to the plaintiff. As such, the Plaintiff has filed this suit and application for temporary injunction and has prayed for passing an order of ad-interim injunction against the Defendant nos.1-3.

Perused the photocopies of documents filed by the Plaintiff and materials on record. It prima facie appears that the Plaintiff has acquired share over the suit property by way of heba and inheritance. Nothing prima facie appears before this court to show that the suit property is partitioned. As such, it appears to this court that the Plaintiff has strong prima facie case to proceed with. However, it appears to this court that if the possession and nature and character of the suit property is not protected at this stage, it will cause irreparable loss and injury to the Plaintiff and will also lead to multiplicity of proceedings. Hence, this court finds it urgent to protect the suit property at this ad interim stage.

Hence, it is,

ORDERED

that the Plaintiff and the Defendant nos.1-3 are directed to maintain status quo in respect of the nature, character and possession over the suit property till 16.02.2024.

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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