

P.S 73/2020

Order No.02 / Dated:- 02.03.2020.

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

Heard Ld. Advocate for the Plaintiffs.

Issue notice upon the Defendant Nos. 1-5 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.

The Plaintiff's case is that Kalu Konai was the owner of the suit property and his name was recorded in LRROR. On his death, his share devolved upon Madhab Mondal and the Defendants. Madhab Mondal transferred his share i.e. 0.666 dec to the Plaintiff by registered Sale Deed dtd. 21.11.2019 and delivered possession. The father of the Plaintiff possessed the same as the Plaintiff was minor at that time. As such, the Plaintiff has 0.666 dec land in the suit property and the rest belongs to the Defendants. The suit property is ejmali property and the parties are co-sharers. The Defendant Nos. 1-5 are trying to raise new construction over the best portion of the suit property exceeding their and also trying to transfer it to third party. When the Plaintiff asked for amicable partition of the suit property, the Defendant Nos. 1-5 refused. If the Defendant Nos. 1-5 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 Defendant Nos. 1-5.

Perused Deed of Plaintiff and the Plot Information in the name of Kalu Konai. This is a suit for partition. The Plaintiffs stated on affidavit that the Defendant Nos. 1-5 are trying to raise new construction over the best portion of the suit property exceeding their share and also trying to transfer it to third party. Considering the above aspects, I think that the Plaintiff has a prima facie case and will suffer irreparable loss and injury if the Defendant Nos. 1-5 are successful in their efforts. There is a necessity to preserve the suit property and urgency or else multiplicity suits will arise.

Hence, it is,

ORDERED

that the Plaintiff and the Defendant Nos. 1-5 are directed to maintain status quo in respect of the nature, character and possession over the suit property till 01.04.2020.

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.

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