

P.S. 37 of 2023
CNR No. WBMD06-000040-2023

Order No. 02 / Dated:- 20.01.2023.

The Plaintiff moves the petition under O-39 R 1,2 & 3 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 Lahabar Mondal, Dinbar Mondal, Bilat Mondal and Nejamat Mondal was the original owner and possessor of the suit property. Lahabar Mondal died leaving behind his son, Gani Mondal @ Gani Mahammad Sarkar as his legal heir and he inherited the property of his father and his name got recorded in the RSROR. Dinbar Sarkar died leaving behind his two sons, namely, Khodabox Mondal and Saifuddin Mondal, who had inherited his share in the suit property. Thereafter, on 06.04.1960, Saifuddin Mondal transferred his 08 Decimals in two plots in favour of Gani Mahammad Sarkar by Deed of Sale being no. 2750. On 23.05.1970, Nejamat Mondal transferred his 08 Decimals in two plots in favour of Gani Mahammad Sarkar by way of Deed of Sale being no. 4845. Then, Gani Mondal is the owner of total 18 decimals of the suit property. On the death of Gani Mondal, his share in the suit property devolved upon the plaintiffs who are his legal heirs. The names of these plaintiffs are recorded in the LRROR in respect of some properties. The suit property is ejmali property and no partition was done. The defendants are the legal heirs of Delbar Mondal and Nejamat Mondal. Suddenly, on 09.01.2023, this Defendants are threatening to dispossess the Plaintiffs and are threatening to raise new construction over the best portion of the suit property exceeding their shares. When the Plaintiffs asked for amicable partition of the suit property, these Defendants refused. If these defendants are successful in their effort, the Plaintiffs will suffer irreparable loss and injury. Accordingly, the Plaintiffs have prayed for passing an order of ad-interim injunction against these defendants.

Perused the photocopies of documents filed by the Plaintiffs and materials on record. It prima facie appears that the Plaintiff has acquired title over the suit property by way of 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 Principal Defendants are directed to maintain status quo in respect of the nature, character and possession over the suit property till 20.07.2023.

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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