

P.S. 60 of 2023
CNR No. WBMD06-000082-2023

Order No. 02 / Dated:- 02.02.2023.

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

Heard Ld. Advocate for the Plaintiffs.

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

As per endorsement of Sheristadar, no caveat is pending.

The Plaintiffs' case is that Sadenur Bibi was the original owner and possessor of the suit property. She transferred 29 decimals of the suit property to the plaintiff and defendants no. 10 and 11 by way of registered Deed of Sale. The suit property is ejmali property and is not partitioned. On 25.01.2023, the Principal Defendants no. 1 and 2 are trying to cut the trees and are trying to raise new construction forcefully over the suit property. If the Principal Defendants no. 1 and 2 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 Principal Defendants no. 1 and 2.

Perused the photocopies of documents filed by the Plaintiff and materials on record. It prima facie appears that the Plaintiff has acquired title over the suit property by way of purchase. 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 no.1 and 2 are directed to maintain status quo in respect of the nature, character and possession over the suit property till 04.09.2023.

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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