

P.S. 134 of 2023
CNR No. WBMD06-000176-2023

Order No. 02 / Dated 15.03.2023:-

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 Defendant nos. 1 and 2 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 Satyanarayan Saha was the owner and possessor of 12 decimals out of 18 decimals in the Sale Deed no. 302/1998 by way of purchase. On the death of him, his wife and two sons i.e., plaintiff nos. 1 and 2-3 inherited his shares. Thus, the plaintiffs are the owners and possessors of 12 decimals shares in the suit property. The suit property is ejmali property and is not partitioned by metes and bounds. Suddenly, the Defendant nos. 1 and 2 are threatening to dispossess the Plaintiffs and are threatening to raise new construction over the best portion of the suit property. When the Plaintiffs asked for amicable partition of the suit property, these Defendants refused. If these defendants are successful in their effort, 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 and 2.

Perused the photocopies of documents filed by the Plaintiffs and materials on record. It prima facie appears that the Plaintiffs have 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 Plaintiffs have 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 Plaintiffs 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 Plaintiffs and the Defendant nos. 1 and 2 are directed to maintain status quo in respect of the nature, character and possession over the suit property till 09.10.2023.

The Plaintiffs are 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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