

P.S. 186 of 2024
CNR No. WBMD06-000215-2024

Order No. 02 / Dated 07.03.2024:-

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 plaintiffs.

Heard Learned Advocate for the Plaintiffs.

Issue notice upon the Principal defendant no. 1 directing him 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 one Sajjad Ali was the owner and possessor in the suit property and his name is recorded in the LRROR and while he was owning and possessing his property, he transferred 45 decimals in favour of the plaintiffs vide registered deed of hebanama dated 22.05.2023 and delivered possession. In this way, the plaintiffs became the owner and possessor of 15 decimals each and they possess total 45 decimals and their names are recorded in the LRROR. Principal defendant no. 1 is claiming to be the owner of rest portion of the suit property. The suit property is an ejmali property and has not been partitioned yet. As the principal defendant no. 1 is threatening to make construction over the best portion in the suit property exceeding his shares and also is threatening to transfer the suit property to the third party, facing difficulty in enjoying the suit property in ejmali, the Plaintiffs approached this defendant for amicable partition of the suit property, but in vain. In case, the principal defendant no. 1 gets successful in his effort, it will cause irreparable loss and injury to the plaintiffs. As such, the Plaintiffs have filed this suit and application for temporary injunction and have prayed for passing an order of ad-interim injunction against the principal defendant no. 1.

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 hebanama. 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. From the application for temporary injunction supported by affidavit, it appears that the principal defendant no. 1 is threatening to do overt act over the suit property. As such, 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 Plaintiffs and the principal defendant no. 1 are directed to maintain status quo in respect of the nature, character and possession over the suit property till 09.04.2024.

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 – WB01116.

C.J (Sr. Divn.), Lalbagh, Msd.