

Order No.2 /Dated:07.07.2019

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

Heard Ld. Advocate for the Plaintiff.

Issue notice upon the 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.

The Plaintiffs' case is that the suit property belonged to Khetronath Mahara to the extent of 8 anna share and 4 anna share each to Kesabnath Mahara and Surendranath Mahara and the CSROR was duly recorded in their name. In the RSROR also the 8 anna share of Khetronath Mahara. There is a dwelling house over the suit property which is undivided. On death of Khetronath his 8 anna share devolved upon his three sons Kalipada Das, Meghnath Singha and Jyotish Singha and six daughters. On death of Meghnath Singha his share devolved upon his four sons Nandalal, Netai, Gopal and Gourchandra Singha and they transferred 6 decimal land to the Plaintiff No. 1 and 2 vide registered Sale Deed dt. 14.12.94. Nandalal, Netai, Gopal Singha transferred 3 decimal land to Plaintiff No. 3 and 4 vide registered Sale Deed dt. 13.08.10. The LRROR is duly recorded in the names of Plaintiff No. 1 to 4. On death of Kalipada Das his share devolved upon Tarubala Dasi, Jogeshchandra Das, Sukumar Das, Sambhu Chandra Das, Saptam Das, Jamuna Dasi and Janga Dasi and they sold 6 decimal land to Plaintiff No. 5 to 7 vide registered Deed dt. 30.09.93 and delivered possession. Gopal Singha transferred 7.5 decimal to Plaintiff No. 6 vide registered Sale Deed dt. 18.02.10 and the name of Plaintiff No. 5 to 7 have been duly recorded in LRROR. Thus the Plaintiffs have 22-1/2 decimal in the suit property. The Plaintiffs are in ejmal possession and the property is undivided. The rest belongs to the Defendants. Now the Defendants disclosed that subsequently only 4 anna share has been recorded in name of Khetronath in RSROR and on inquiry the Plaintiffs came to know that such RSROR was procured by the Defendants in collusion with settlement employees. Taking advantage of such situation the Defendants are trying to raise construction over more than their share in the suit property and are trying to transfer the property and if they are successful the Plaintiffs will suffer irreparable loss and injury. When the Plaintiff asked for amicable partition the Defendant refused. Hence the instant petition. Accordingly, the Plaintiffs have prayed for passing an order of ad-interim injunction against the Defendants.

Perused the plaint, the petition the Deeds filed by the Plaintiff including the LRROR in the name of the Plaintiff. The suit property is unpartitioned. On affidavit the Plaintiffs stated that the Defendants are trying to change, nature and character of suit property. Considering the above aspects, I think that the Plaintiffs have a prima facie case and will suffer irreparable loss and injury if the Defendants 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**

Both the Plaintiffs and the Defendants are directed to maintain status quo in respect of the nature, character and possession over the suit property till 05.08.19.

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.

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