

P.S. 266 of 2023
CNR No. WBMD06-000312-2023

Order No. 02 / Dated 15.05.2023:-

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 Defendant nos. 1-9 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 the quantum of the suit plot no. 453, 454, 455, 456, and 457 in the RS khatian no. 21 is 2 acre 44 decimals, the quantum of the suit plot no. 458, 459, 460, 461, 462 and 463 in the RS khatian no. 22 is 1 acre 32 decimals, and the quantum of the suit plot no. 466, 467, 468, 469 and 470 in the RS khatian no. 23 is 50 decimals and total quantum of the suit plot is 426 decimals in the suit property. Laskar Sk (father of the plaintiffs) was the was the owner and possessor of 42.6 decimals shares in the suit property. On the death of him, his shares devolved upon his five daughters i.e., plaintiffs, defendant no. 1 and brother of Laskar Sk (Ashu Sk). In this way, the plaintiffs are the owners of 22.720 decimals shares in the suit property. The owners of rest portion of the suit property are the defendants. The suit property is ejmali property and is not partitioned by metes and bounds. Now, the Principal Defendant nos. 1-9 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 Plaintiff will suffer irreparable loss and injury. Accordingly, the Plaintiff has prayed for passing an order of ad-interim injunction against the Principal Defendant nos. 1-9.

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 Principal Defendant nos. 1-9 are directed to maintain status quo in respect of the nature, character and possession over the suit property till 22.12.2023.

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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