

Order No.02 / Dated:- 20.08.2019

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 Defendant No. 7-10 directing them to show-cause within 15 days of receiving the same as to why the Plaintiff prayer for temporary injunction shall not be granted.

The Plaintiff's case is that the 11 decimal of suit property belonged to Yajuddin Sarkar @ Giyasuddin Sk. @ Giyafuddin Sk. and his name was recorded in LR Khatian No. 54 & 586. On his death, his three sons, three daughters and wife i.e. the Plaintiffs became owner of the said suit plot by way of inheritance. Thus, the Plaintiffs have 11 dec land in the suit property and their names are recorded in LRROR and the rest property belongs to Defendants. The suit property is ejmal property and the parties are co-sharers. On 08.08.2019, the defendant No. 7-10 are trying to raise new construction over best portion of the suit property and is also purchased building materials and trying to oust the Plaintiffs. When the Plaintiff asked for amicable partition, the Defendant No. 7-10 refused. Thus, the instant petition. If the Defendant No. 7-10 are successful in their effort the Plaintiffs will suffer irreparable loss and injury. Accordingly, the Plaintiffs have prayed for passing an order of ad-interim injunction against the Defendant No. 7-10.

Perused the original document of the Plaintiffs i.e. the LR Khatian 54 & 586 and the LRROR in name of the Plaintiffs. This is a suit for partition. On affidavit the Plaintiffs stated that the Defendant No. 7-10 are trying to raise new construction. Considering the above aspects, I think that the Plaintiffs have a prima facie case and will suffer irreparable loss and injury if the Defendant No. 7-10 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 Defendant No. 7-10 are directed to maintain status quo in respect of the nature, character and possession over the suit property till 19.09.19.

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.

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