

Partition Suit No. 425 of 2024

Order No. 05 dated 01/10/2024.

Record is put up today by the plaintiff to move her application made under Order 39 Rule 1 and 2 of Civil Procedure Code for ad-interim order of injunction.

As per endorsement of Sheristadar, no caveat is pending.

Accordingly, the record is taken up for hearing of plaintiff's prayer for ad interim injunction.

Heard Learned Advocate Sri Debasish Halder appearing for the Plaintiff. Perused the injunction petition and the documents filed by the plaintiff.

On consideration of the submission of learned advocate for the plaintiff, the contents of their relied documents it prima facie appears that the suit property are the ancestral land of both the parties to the suit and both the parties became co-sharers in the suit property by way of inheritance and both the sides are in eajmal possession over the same.

At this moment the primary allegation of the plaintiff is that though the suit property has not yet been partitioned amongst its co-sharers by metes and bounds but in spite thereof the defendant No. 1 to 5 are trying to occupy its best portion by making pucca construction over the best portion of the 'eajmal' property, which is detrimental to the rights and interest of the plaintiff and rise cause of action in favour of the plaintiff to file this suit.

Since this is a suit for partition and all the parties to the suit are admittedly found to be co-sharer of the suit property, therefore without hearing the defendants or at least giving them a chance of being heard, passing of a prohibitory order would not be proper.

However at the same time I am of the opinion that for the purpose of protecting the original nature and character of the suit property it is necessary to direct both the parties to maintain status quo on it.

Accordingly, the prayer for an ad-interim order of injunction as prayed by the plaintiff is considered and allowed, in the form of status quo.

Hence, the plaintiff as well as defendant No. 1 to 5 are directed to maintain status quo in the suit property as to its nature, character and possession (as on date), till the next date.

Issue notice upon the defendant No. 1 to 5 asking them to file show-cause within 15 days of receiving the same, as to why the Plaintiff's prayer for temporary injunction shall not be allowed.

Fixed **05.12.2024** for awaiting SR of injunction notice and further order.

The Plaintiff is directed to comply with the provisions of Order 39 Rule 3(a) and (b) of the Civil Procedure Code, at once.

Documents may be returned to the plaintiff, on usual undertaking to refile the same, if called for.

D & C by me
Sd/- Gourab Ghosh
CJSD, Lalbagh

Sd/- Gourab Ghosh
Civil Judge (Senior Division)
Lalbagh, Murshidabad, W.B
J.O.Code: WB01100.