

P.S. 337 of 2023  
CNR No. WBMD06-000385-2023

Order No. 02 / Dated 01.06.2023:-

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 Defendant no. 1 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 Satu Mondal, Kalabati Mondal, Balam Mondal were the owners and possessors in the suit schedule property. Balam Mondal was the owner and possessor of 1/3rd shares in the suit property. He died leaving behind his wife, namely, Niroda Mondal i.e., plaintiff no. 1 and son, namely, Sanatan Mondal- plaintiff no. 2 and two sons (defendant nos. 1 and 2) of deceased first wife of Balam Mondal as his legal heirs. That is why plaintiffs have total 1/6th shares in the suit property and rest 1/6th shares belong to defendant nos. 1 and 2. The suit property is ejmali property and is not partitioned. Now, the Defendant no. 1 is 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, this Defendant refused. If this defendant is successful in his 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. 1.

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 Defendant no. 1 are directed to maintain status quo in respect of the nature, character and possession over the suit property till 26.02.2024.

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 – WB1116.

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