

Order No.2

Dated:-05.08.2016

The petition under O-39 R 1&2 read with Sec-151 CPC is moved today on behalf of the Plaintiffs by their Ld. Advocate.

Heard Ld. Advocate for the Plaintiffs.

Issue notice upon the Defendant no.1 calling upon him to file show-cause within 15 days of receiving the same as to why the Plaintiff's prayer for temporary injunction will not be granted.

Now the Plaintiffs' prayer for ad-interim injunction is taken up for consideration. Perused the plaint, the petition under O-39 Rule 1&2 read with Sec-151 CPC supported by affidavit and the documents filed on behalf of the Plaintiffs.

The Plaintiffs' case is that one Meher Negar Bibi and Beauty Bibi were the original owners and in possession of the suit property by purchasing the same by virtue of a deed of sale executed on 11.03.02 and registered on 14.05.02 and being no.4614. While owning and possessing the same they sold out some portions of the suit property in favour of the plaintiff no.1 and one Tarjem Sk being the father of the plaintiff nos.2 to 4 by executing a registered deed of sale being no.4444 dt.30.05.07. The plaintiff no.1 and Tarjem Sk started owning and possessing of their respective portions in the suit property by way of purchase. After the death of Tarjem Sk the plaintiff nos.2 to 4 being his legal heirs acquired ownership and possession in respect of his share in the suit property by way of inheritance. Thus the plaintiff no.1 has 1 13/20 shatak share and the plaintiff nos.2 to 4 have 5 7/20 shatak shares in the suit property and they are occupying the same in ejmali along with the defendant who is the owner and in occupation of the remaining portion of the suit property by way of purchase. The suit property has yet not been partitioned. The defendant is trying to raise construction over the best portions of the suit property and also trying to cause disturbance in the peaceful possession of the plaintiffs in the suit property for which the plaintiffs have prayed for an ad-interim order of against the defendants.

Perused the documents filed on behalf of the plaintiffs which include xerox copies of sale deeds being no.4614 of 2002 and 4444 of 2007 and two Khajna receipts. After going through the same, it appears to me that the Plaintiffs have been able to make out a prima facie case at this stage and the balance of convenience and inconvenience is in favour of the Plaintiffs. Further, irreparable loss and injury may be caused to the Plaintiffs if the defendant makes construction over the best portion of the suit property and the possession of the plaintiffs is disturbed in any manner.

Considering the urgency of the situation and that delay may defeat the very object of granting injunction and to avoid multiplicity of suits and proceedings, I am of the opinion that it will be proper to grant the prayer for ad-interim injunction in favour of the plaintiffs in the form of status quo. Hence both the Plaintiffs and the Defendant no.1 are directed to maintain status quo in respect of the nature, character and possession of the suit property till 18/08/16. 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.

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

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