

P.S. 357 of 2023
CNR No. WBMD06-000405-2023

Order No. 02 / Dated 02.06.2023:-

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. 1 directing him 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 plaintiff's case is that Jaber Ali Biswas was the owner and possessor in the suit property. While owning and possessing the suit property, he transferred his shares in the suit and non suit property to the plaintiff and defendant no.1 by registered deed of Heba-Bil-Ewajnama being no. 11883 and delivered possession to them. The name of the plaintiff is recorded in the LR khatian no. 436. The suit property is ejmali property and is not partitioned. Now, the Defendant no. 1 is threatening to dispossess the plaintiff and are threatening to raise new construction over the best portion of the suit property and also transferring the suit property to the third party. When the plaintiff asked for amicable partition of the suit property, this Defendant refused. If this defendant is successful in his effort, the Plaintiff will suffer irreparable loss and injury. Accordingly, the Plaintiff has prayed for passing an order of ad-interim injunction against the Defendant no. 1.

Perused the photocopies of documents filed by the plaintiff and materials on record. It prima facie appears that the plaintiff has acquired title over the suit property by way of heba. Nothing prima facie appears before this court to show that the suit property is partitioned. As such, it appears to this court that the plaintiff has 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 plaintiff 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 plaintiff and the Defendant no. 1 are directed to maintain status quo in respect of the nature, character and possession over the suit property till 10.02.2024.

The plaintiff is 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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