

P.S. 46 of 2023
CNR No. WBMD06-000049-2023

Order No. 02 / Dated:- 25.01.2023.

The Plaintiffs move the petition under O-39 R 1&2 read with Sec-151 CPC.
Heard Ld. Advocate for the Plaintiff.

Issue notice upon the Principal Defendants directing them to show-cause within 15 days of receiving the same as to why the Plaintiffs' prayer for temporary injunction shall not be granted.

As per endorsement of Sheristadar, no caveat is pending.

The Plaintiff's case is that one Pulin Mondal was the owner of the suit property and his name was recorded in the RSROR. On the death of Pulin Mondal, his two sons, Baidyanath Mondal and Satish Mondal and two daughters, namely, Kuloda Mondal and Sukhoda Mondal inherited his share in the suit property. Thereafter, Baidyanath Mondal transferred 2 decimals in suit property by way of gift to one Mohan Mondal. Kuloda Mondal died leaving behind Ahalladi Mondal, Amir Mondal, Bijoli Mondal, Karunamayee Mondal, Srimati Mondal and Sadhin Mondal as her legal heirs, who in turn, inherited her share in the suit property. Thereafter, on the death of Ahalladi Mondal, Sakuntala Mondal, Sukumari Mondal and Susanta Mondal inherited her share in the suit property. On the death of Sukhoda Mondal, her share devolved upon Ananda Mondal and Menoka Mondal. Subsequently, the legal heirs of Kuloda Mondal and Sukhoda Mondal transferred their share in suit property by way of sale to plaintiff nos. 1 and 2. On the death of Satish Mondal, his share devolved upon Chandan Mondal, Jaychand Mondal, Kamala Mondal, Kanchan Mondal, Niroda Mondal, Promoda Mondal, Sunil Mondal and Upen Mondal. Thereafter, on the death of Kamala Mondal, her share devolved upon Bishnupada Mondal and Urmila Mondal. Subsequently, Bishnupada Mondal and Urmila Mondal transferred their share by way of sale in favour of plaintiff nos. 1 and 2. Sunil Mondal transferred his share by way of sale to Upen Mondal. On the death of Upen Mondal, his share devolved upon plaintiff nos. 1,2, 4 and Charubala Mondal. Thereafter, the said Charubala Mondal transferred her share in suit property by way of gift to plaintiff no. 2. The said Chandan Mondal, Joychand Mondal, Kanchan Mondal, Niroda Mondal transferred their share in suit property in favour of defendant nos. 2 and 3. Defendant no. 1 is claiming to have got the share of Mohan Mondal. In this way both the plaintiffs and defendants became the owners and possessors over the suit property. The suit property is ejmali property and is not partitioned. Now the Defendants are threatening the Plaintiffs to raise new construction over the best portion of the suit property exceeding their share. If the Principal Defendants are successful in their efforts, the Plaintiffs will suffer irreparable loss and injury. Accordingly, the Plaintiffs have prayed for passing an order of ad-interim injunction against Defendants.

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 purchase, gift and 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.

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Hence, it is,

ORDERED

that the Plaintiffs and the Principal Defendants are directed to maintain status quo in respect of the nature, character and possession over the suit property till 19.08.2023.

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.

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