

P.S. 446 of 2023
CNR No. WBMD06-000500-2023

Order No. 02 / Dated 17.07.2023:-

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 Principal Defendants 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 Nabi Sk was the owner and possessor in the suit property. His name is recorded in the LR khatian no. 1116, 679, 1196 and 1197. While he owning and possessing the suit property, he transferred his total shares in the suit property to the plaintiffs by registered two deeds of hebanama dated 10.11.2020 and 07.7.2021 respectively and delivered possession to them. In this way, the plaintiffs have total 80.5 decimals of land in the suit property. Their names are recorded in the LR khatian no. 1611, 1612 and 1613. The owners of rest portion of the suit property are the defendants. The suit property is ejmali property and is not partitioned by metes and bounds. Now, the Defendant nos. 1-7 are threatening to dispossess the Plaintiffs and are threatening to raise new construction over the best portion of the suit property exceeding their shares and also transferring the suit property to the third party. When the Plaintiffs asked for amicable partition of the suit property, these Defendants refused. If these defendants are successful in their 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 nos. 1-7.

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 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 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 nos. 1-7 are directed to maintain status quo in respect of the nature, character and possession over the suit property till 07.05.2024.

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.

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