

P.S. 681 of 2023
CNR No. WBMD06-000777-2023

Order No. 02 / Dated 22.11.2023:-

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 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 plaintiff's case is that plaintiff, Akbar Ali, Soleman Sk, Serajuddin Sk, Mannan Sk, Enamul Sk and Sk Iaar Nabi executed a registered Partition Deed. In this respect, plaintiff and Akbar Ali got 19.278 decimals land in the suit property. In this way, the plaintiff is the owner and possessor of 9.639 decimals land in the suit property. The name of the plaintiff is recorded in the LRROR. The owners of rest portion of the suit property are the principal defendants. The suit property is ejmali property and is not partitioned. Now, the Principal Defendants are threatening to dispossess the plaintiff 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 plaintiff asked for amicable partition of the suit property, these Defendants refused. If these defendants are successful in their effort, the Plaintiff will suffer irreparable loss and injury. Accordingly, the Plaintiff has prayed for passing an order of ad-interim injunction against the Principal Defendants.

Perused the photocopies of documents filed by the plaintiff and materials on record. From the documents, it prima facie appears that no partition had taken place by metes and bounds. It further prima facie appears that the plaintiff has acquired share only over the suit property by way of partition. Nothing prima facie appears before this court to show that the suit property is partitioned by metes and bounds. 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 Principal Defendants are directed to maintain status quo in respect of the nature, character and possession over the suit property till 23.04.2024.

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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