

P.S. 556 of 2022  
CNR No. WBMD06-000864-2022

Order No. 02 / Dated:- 26.08.2022.

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 Nos. 1-7 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 Khodabox Mondal and Aresh Ali had 8 anna share each in the suit property. Aresh Ali died leaving behind three sons i.e. Saidur Rahaman, Ayekul Islam & Nawab Ali as his legal heirs. On 12.11.1999 one Partition Deed was executed amongst Khodabox Mondal and Saidur Rahaman, Ayekul Islam & Nawab Ali vide which Khodabox Sk. acquired 20.50 dec in the suit property and Saidur Rahaman, Ayekul Islam & Nawab Ali acquired the rest share in the suit property. Khodabox Mondal transferred 19- 5/6 dec to his two sons i.e. the Plaintiff and Nazrul Islam and daughter i.e. Defendant No. 8 by registered Heba Deed dated 24.11.1999 and delivered possession. Khodabox Sk. also executed one Heba on the same to his another son i.e. Defendant No. 9. Defendant Nos. 1-7 are the legal heirs of Nazrul Islam. The name of Plaintiff is recorded in LRROR. The suit property is an ejmali property and the parties are co-sharers. Now the Defendant Nos. 1-7 are trying to raise new construction over the best portion of the suit property on more than their share. If the Defendant Nos. 1-7 are successful in their efforts, the Plaintiff will suffer irreparable loss and injury. Accordingly, the Plaintiff has prayed for passing an order of ad-interim injunction against Defendant Nos. 1-7.

Perused the photocopies of documents filed by the Plaintiffs and materials on record. It prima facie appears that the Plaintiff has 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 Nos. 1-7 are directed to maintain status quo in respect of the nature, character and possession over the suit property till 13.01.2023.

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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