

P.S. 87 of 2022  
CNR No. WBMD060000942022

Order No. 02 / Dated:- 02.02.2022.

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 Defendant Nos. 1-4 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 Plaintiffs' case is that Kalimuddin Munsî, Abdul Sk., Saktulla Sk., Aresuddin Sk. had 3 anna 4 gonda each and together had 12 anna 16 gonda share and Aijuddin Sk., Jubbar Sk, Amina Khatun, Falaton Bibi, Nursan Bibi, & Raheman Bibi together had 3 anna 4 gonda share in the suit property and their names have been recorded in CS Khatian No. 595. On death of Kalimuddin Munsî, his share devolved upon his daughter i.e. Mst. Momina Khatun Bibi and she transferred 4 dec to Defendant Nos. 2-4 & Plaintiff Nos. 1 & 2 by registered Sale Deed No. 4923 dtd. 12.05.1980. Mst. Momina Khatun Bibi transferred 8 dec to Defendant Nos. 2-4 and Plaintiff Nos. 1 & 2 by registered Sale Deed No. 4922 dtd. 12.05.1980. Ajijar Rahaman @ Aijuddin Sk., Jabiar Rahaman @ Jubbar Sk., Nursan Bibi, Rahiman @ Raheman Bibi transferred 17 dec to Kashimuddin Sk. & Jaigan Bewa by registered Sale Deed No. 5286 dtd. 06.10.1952. Kashimuddin Sk. & Jaigan Bewa transferred their share along with non-suit property to Defendant Nos. 2-4 & Plaintiff Nos. 1 & 2 by registered Hebanama Deed dtd. 20.10.1978 and delivered possession. On death of Abdul Sk., his share devolved upon his three sons i.e. Jakhimuddin Sk., Khalil Sk. & Tahasan Sk. and they transferred 2 dec to Defendant Nos. 2-4 and Plaintiff Nos. 1 & 2 by registered Sale Deed No. 3888 dtd. 03.04.1982. On death of Jakhimuddin Sk., his share devolved upon his wife i.e. Sarbanu Bewa, sons i.e. Tajrul Islam & Sabiar Rahaman and daughters i.e. Khaleda Bibi, Minara Bewa, Beluara Bibi and Sirifa Bibi. Thereafter, Sarbanu Bewa, Tajrul Islam, Sabiar Rahaman, Khaleda Bibi, Minara Bewa, Beluara Bibi transferred 13 dec to Defendant Nos. 2 & 3 and Plaintiff Nos. 1 & 2 by registered Sale Deed No. 2505 dtd. 28.04.1995. Sirifa Bibi transferred 1 dec to Tajrul Islam by registered Sale Deed No. 1837. In this manner, the Plaintiffs and Defendant Nos. 2-6 together have 48.8 dec land and are in ejmal possession with Defendant No. 1. The Plaintiffs applied for recording their names in LRROR before appropriate authority. The suit property is an ejmali property and the parties are co-sharers. Now the Defendant Nos. 1-4 are trying to raise new construction over the best portion of the suit property on more than their share. If the Defendant Nos. 1-4 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 the Defendant Nos. 1-4.

Perused all the Deeds and CSROR. This is a suit for partition of ejmali property. The Plaintiffs prima facie appears to be a co sharer and stated on affidavit that the Defendant Nos. 1-4 are trying to raise new construction over the best portion of the suit property on more than their share. Considering the above aspects, this court is of the view that the Plaintiffs have prima facie case and will suffer irreparable loss and injury if the Defendant Nos. 1-4 are successful in their efforts. There is a necessity and urgency to preserve the suit property or else multiplicity of suits will arise.

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Hence, it is,

**ORDERED**

that the Plaintiffs and the Defendant Nos. 1-4 are directed to maintain status quo in respect of the nature, character and possession over the suit property till 02.05.2022.

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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