

P.S. 493 of 2023
CNR No. WBMD06-000556-2023

Order No. 02 / Dated 11.08.2023:-

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 Defendant nos. 1-3 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 Lokman Sk, Niyamat Sk, Kiyamat Sk, Saliman Bewa and others were the owners and possessors in the suit property. Their names are recorded in the RSROR. While owning and possessing the suit property, Kiyamat Sk sold 25 decimals land in the suit plot no. 744 to the plaintiff and Abdur Rajjak by registered deed of sale dated 22.04.1963 and delivered possession to them. While owning and possessing the suit property, Saliman Bewa sold 51 decimals land in the suit plot no. 2976 to the plaintiff and Abdur Rajjak by registered deed of sale dated 26.03.1960 and delivered possession to them. In this way, the plaintiff has total 33 decimals of land in the suit plot nos. 744 and 2976. 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 Defendant nos. 1-3 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 Defendant nos. 1-3.

Perused the photocopies of documents filed by the plaintiff and materials on record. It prima facie appears that the plaintiff has acquired title over the suit property by way of purchase. 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 Principal Defendant nos. 1-3 are directed to maintain status quo in respect of the nature, character and possession over the suit property till 24.06.2024.

The plaintiff 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.

C.J (Sr. Divn.), Lalbagh, Msd.