

TS 01/17

order no 02 dated 12.01.17

The record is put up before me as the learned advocate for the plaintiff moved the application filed under order 39 rules 1, 2 & 3 of the Code of Civil Procedure read with section 151 of the Code of Civil Procedure for an order of ad interim injunction against the defendants.

This is a suit for declaration and permanent injunction. No caveat is lying pending as per note of the sheristadar.

Heard learned advocate for the plaintiff who submits the suit property is undivided ancestral dwelling house. The plaintiffs are residing over the said house. The defendants are stranger to the suit property. The other co-sharer of the house have transferred some portion of property to the defendants without informing them. Presently, the defendants are trying to enter into the property. By their act, the integrity of plaintiffs house will be destroyed.

I have gone through the instant application supported by an affidavit, documents filed by the plaintiff and it appears to me that in the year 1984 one of the co-sharer ha transferred some property in favour of the predecessor of defendants. The defendants in the year 2016 have purchased some property in suit plot. The plaintiffs did not file any suit prior to this suit regarding the previous transfer. Moreover, no documents are filed to show the nature of the property and who are in possession over the suit plot. Accordingly, without ascertaining the actual physical possession, any order of restrained may be abused of law.

Considering this I don't inclined to pass any restrained plaintiff failed to make out prima facie case. Balance of convenience and inconvenience also does not lie in favour of the plaintiff.

Hence, it is

Ordered

that the ad interim injunction petition is hereby refused at this stage

Issue notice upon the defendants asking them to show cause within 20 days from the date of receipt of this notice as to why the application for temporary injunction filed by the plaintiff shall not be granted against them.

Requisite at once.

To date