

Title Suit 32 of 2019

Order no.02 dated 15/01/2019

The record is put up today as the Ld. Advocate for the plaintiffs moved an application under Order XXXIX Rules 1 and 2 read with Section 151 of the C.P.C. supported by an affidavit for an order of ad interim injunction against the defendants.

Issue notice upon the defendants calling upon him to show-cause within 10 days from the date of receipt of notices as to why the prayer of the plaintiffs for temporary injunction shall not be granted.

Heard Ld. Advocate for the plaintiffs.

Seen the office report where from it appears that **no caveat** is pending.

This is a suit for declaration and injunction.

The fact of the plaintiffs' case in brief is that, one Osman Sk was the original owner and occupier of the suit property and after his death his sons namely Ajim Sk and Kader Sk became owners of equal shares in respect of the suit property. After death of Ajim Sk his legal heirs including the plaintiffs have been occupying the suit property and subsequently the wife of Ajim Sk and the rest of the legal heirs executed a hebanama in favour of the plaintiffs and since then the plaintiffs have been owners and occupiers of the suit property. In the LRROR the name of Ajim Sk and Kader Sk have been recorded correctly but there has been error in mentioning the amount of property in the name of Ajim Sk. The defendants are interfering peaceful possession of the plaintiffs on the basis of the erroneous LRROR. Hence, this instant suit by the plaintiffs.

To substantiate their case plaintiffs have produced some documents by firisti.

Considered the facts and circumstances of the instant case and perused the materials available on record. On careful perusal of the application as well as the documents it appears that plaintiffs have been able to make out a prima facie case in their favour. The plaintiffs have produced the original hebanma bearing no. 3001/201 and the original hebanama bearing no. 446/2017, from perusal it prima faice transpires that the plaintiffs have right, title and interest over the suit property. Whether the recording in the

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LRROR is erroneous or not is matter of trial. At this stage the balance convenience and inconvenience in granting an ad interim temporary injunction is in favour of the plaintiff and the element of urgency is also present. As such I am inclined to hold that the prayer of the plaintiff should be allowed but in the form of status quo.

Hence, it is

ORDERED

that both the parties to the suit are directed to maintain status quo in respect of the nature, character and possession of the suit property as on this date till **15/02/2019**.

Plaintiff is hereby directed to comply the provisions of Order XXXIX Rules 3(a) and 3(b) of the C.P.C.

Requisites at once.

D/C. by me.

Sd/-

(Reshmi Das)
Civil Judge (Jr. Div.),
Lalbagh,
In -Charge

Sd/-

(Reshmi Das)
Civil Judge(Jr. Div.),
Lalbagh
In -Charge