

P.S. 442 of 2021
CNR No. WBMD060005142021

Order No. 02 / Dated:- 09.11.2021.

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 Defendants 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 the suit property is comprised of 3 dec land and Jer Md., Abdul Bari & Bani Israil were the owners of the same. They transferred .466 dec to the Plaintiff by registered Sale Deed dtd. 26.02.2010 and delivered possession. Abdul Wahab and others were the another owners of the suit property and they transferred their share to Sadrul Amin & Ismail Sk. by registered Exchange Deed dtd. 05.10.2016. The Plaintiff and others filed a Misc. Case being No. 89 of 2016 in Civil Judge, Jr. Divn., Additional Court, Lalbagh, Murshidabad regarding the said Exchange. The said Misc. Case was disposed of on 20.10.2019 vide which the Plaintiff acquired 0.047 dec land of the suit property. Thus, the Plaintiff has 0.513 dec land in the suit property. The rest property belongs to the Defendants. The another co-sharers i.e. Latifan Bibi & Matiara Bibi transferred their share to the Defendants. The suit property is an ejmali property and the parties are co-sharers. Now the Defendants are trying to dispossess the Plaintiff and are threatening to raise new construction over the suit property and purchased building materials in this regard. If the Defendants 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 the Defendants.

Perused the Deeds as well as the Judgment passed in the Pre-emption case. This is a suit for partition of ejmali property. The Plaintiff prima facie appears to be a co sharer and stated on affidavit that the Defendants are trying to dispossess the Plaintiff and are threatening to raise new construction over the suit property and purchased building materials in this regard. Considering the above aspects, I think that the Plaintiff has prima facie case and will suffer irreparable loss and injury if the Defendants are successful in their efforts. There is a necessity and urgency to preserve the suit property or else multiplicity suits will arise. Hence, it is,

ORDERED

that the Plaintiff and the Defendants are directed to maintain status quo in respect of the nature, character and possession over the suit property till 04.01.2022.

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 – WB00832.

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