

Title Suit 460 of 2019

Order No.2, dated 03/01/2020

The record put up as the Ld. Advocate for the Plaintiff 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 defendant.

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

Heard Ld. Advocate for the Plaintiff.

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 Plaintiff's case in brief is that the plaintiff is claiming to be the owner of 8 Ana share in suit plots acquired by way of inheritance after the death of his mother namely Rani Santhal. Subsequently the plaintiff preferred one suit for partition bearing no.122/91 and obtained preliminary decree on 14/08/1997. As per the decree in the partition suit the plaintiff acquired 8 Ana share in the suit plots along with other non suit properties. Subsequently one appeal was preferred against the judgement passed in Partition suit 122/91 but the said appeal was disposed of on compromise. As per the terms of the compromise petition the plaintiff acquired 16 Ana share in the suit plots. The name of the plaintiff has also been recorded in LR Khatian No.3922. The principal defendant does not have any right, title and interest over the suit property but in spite of the same he is threatening the plaintiff of dispossessing from the suit property.

To substantiate his case Plaintiff has produced some documents before the Court.

Considered the facts and circumstances of the instant case and perused the materials available on record.

The Plaintiff has produced certified copy of the judgement and decree passed in connection with Partition Suit 122/91 as well as the certified copy of order passed in connection with Title Appeal No. 174/1997, on perusal of which it prima facie transpires that the plaintiff acquired right, title and interest over 19 decimals of land comprised in suit plot no.7658 and 21 decimals of land comprised in suit plot no.7657. The plaintiff has also produced computerized

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certified copy of LR Khatian no.3922 which prima facie indicates towards the possession of the plaintiffs with regard to the schedule mentioned suit property. That being the position, the plaintiff has successfully established his prima facie, right, title, interest and possession with regard to the suit property. At this stage the balance of convenience and inconvenience is in favour of the Plaintiff and the Plaintiff have urgency at this stage to pray for an ad-interim relief. As such I am inclined to allow the prayer of the plaintiff.

Hence, it is

ORDERED

that the temporary ad interim injunction as prayed for is hereby considered and allowed and the principal defendant is restrained from interfering with the peaceful possession of the plaintiff with regard to the schedule mentioned suit property as well as from dispossessing the plaintiff from the suit property till **03/02/2020**.

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 (Junior Division),
Lalbagh
In – Charge**

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**Civil Judge (Junior Division),
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In – Charge**