

**In the Court of Civil Judge (Junior Division)**  
**Lalbagh, Murshidabad**

**T.S.-394/20**

Presided over by : Shri Suman Das (J.O. Code WB01211)  
Civil Judge, (Junior Division),  
Lalbagh, Murshidabad

**Order No. 12 dated : 14/09/2023**

Record is taken up for passing order in respect of final disposal of the temporary injunction application.

Both Parties filed hazirahs.

Perused the documents relied upon by the parties together the injunction application under consideration and the written objection filed thereto on affidavit.

It is prima facie found to be the case of the plaintiffs that they acquired title over the entire suit plot's property by dint of three deeds of gift duly executed by their predecessor, namely, Parishan Bibi who was the erstwhile owner of the suit property and whose name was recorded correctly in R.S. R.o.R.

In support of their contention, original title deeds and certified copy of LR R.O.R of the suit plot standing in the name of plaintiffs have been produced and it is shown to the prima facie satisfaction of this Court that the plaintiffs are having absolute ownership and possession of the property of the suit plot.

It is prima facie found to be the positive case of the contesting defendants that the property of the suit property is stood classified as 'DAHAR' in record-of-rights as well as in Mouza map. The suit property is/was never private property and it is/was the property of Jiaganj Union Board and there is no existence of trees therein. By filing false information, plaintiffs have procured an ad interim order. The suit property is a rasta which has continuously and consistently being used by the defendants and other public at large uninterruptedly and openly. Plaintiffs have moved before the Hon'ble Calcutta High Court on the basis of baseless and manufactured documents.

In support of the contentions, photocopies of RS mouza map of the relevant mouza wherein suit property is situated has been produced

together with information slip in respect of RS plot No. 445 and plot information slip of dt. 09-08-2018 (computer generated).

However, it is prima facie found on perusal of these documents so referred and relied upon by the parties respectively having relevancy with the suit plot, apparently there are discrepancies in latest LR recording and RS mouza map in respect of the information related with suit plot No.445 (RS) corresponding to LR Plot No. 550/655. It is again prima facie apparent that the plot information filed by defendants are in respect of Plot No. 550 whereas the suit has been filed in respect of the property of a fragmented plot being No. 550/655 which is said to be corresponding to RS plot No. 445. It is again prima facie apparent that the plaintiffs have been able to show their prima facie possession over the suit property with documents of title whereas the defendants have made assertions only but fails to produce any document in support of the history of origin of the ownership of Jiaganj Union Board. It is again prima facie apparent that defendants do not set up any claim of them over the title of the suit property and so far as the question of possession is concerned their claims is completely based upon assertion of long usage of the suit property as a pathway which is a matter to be decided at trial being contradictory in nature with the present status of the suit plot.

It is well settled that while considering the question of granting temporary injunction this court is only concerned with a strong prima facie case. In this case, on considering the foregoing discussion it is prima facie apparent that plaintiffs have been able to show to the prima facie satisfaction of this Court absolute title and present physical possession over the suit property whereas the defendants could not be able to show prima facie their title and possession over the suit property on the contrary. Thus the balance of convenience and inconvenience can be said to be in favour of the plaintiffs and not in favour of these defendants whose assertions are based upon merely claim of usage of the suit property as 'pathway' and admittedly they are not the owner of the suit property. So, it can be said undoubtedly that it is the plaintiffs who would suffer an irreparable loss if they are dispossessed forcibly from the suit property, as such, the emergent situation is well suggestive of the fact that pending the adjudication of this suit there must be an order of temporary injunction.

Hence, it is

**ORDERED**

that the application filed under Order 39 Rule (1) & (2) of C.P.C by plaintiffs is thus hereby considered and allowed on contest.

By virtue of this order, defendants of this suit are hereby restrained from creating any disturbance in the possession of the plaintiffs over the suit property in any manner whatsoever till the final adjudication of this suit.

Let a date be fixed for discovery and inspection.

To 20-02-2024 for report.  
D/C by me,

Civil Judge (Junior Division)  
Lalbagh,  
Murshidabad

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Murshidabad