

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

T.S.- 234 of 18

Presided over by : Priyanka Shaw (J.O. Code WB 1283)
Civil Judge, (Junior Division),
Lalbagh, Murshidabad

Order No. 21 dated : 09.01.2025

As stipulated by the previous order today is fixed for Injunction hearing.

Plaintiff files hazira along with an extension petition.

Defendant files Advocate hazira.

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

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 plaintiff that the suit land falls within Nabagram PS under Aruliyadanga, Dakshingram and Jaruliya mouza which is described as the suit property. Bhadu Ghosh was the original owner and possessors of the 1 and 2 no lot of the suit property and 8 anns share in the lot no. 3. Upen Ghosh was the owner of 4 annas share in the lot no. 3. After the death of Upen Ghosh, Bhadu Ghosh got the property left by him and the name of Bhadu Ghosh was recorded in the RSROR. He died leaving behind his wife, Prantulya Ghosh, three sons i.e. plaintiffs no. 1 to 3 and four daughters, namely, Laxmi @ Sundari, Bhanumati @ Tunu, Pratima and Basanti. Laxmi Ghosh @ Sundari died leaving behind her two sons, namely, Ujjal Ghosh, Nanda Ghosh, one daughter, Menka and her husband, Lalchand who inherited the share in the suit property left by Laxmi Ghosh @ Sundari. Ujjal Ghosh transferred his share by way of registered deed of sale dated 16.07.2018 to plaintiffs no. 1 and 2 and proforma defendant no. 3. Lalchand Ghosh transferred his share by way of registered deed of sale dated 16.07.2018 to plaintiffs no. 1 and 2 and proforma defendant no. 3. Bhanumati @ Tunu transferred her share by way of registered deed of sale dated 18.04.1990 to plaintiffs no. 1 and 2. Pratima Ghosh died issueless. So, her share is owned by her mother and other brother and sisters. Prantulya Ghosh transferred her share in the suit property by way of registered deed of gift dated 14.11.2011 to the plaintiffs and Basanti Ghosh transferred her share in the suit property by way of registered deeds of sale and gift dated 12.06.1995 and 26.06.2018 respectively to the plaintiffs and proforma defendant no. 3. The husband of Pratima Ghosh i.e. defendant no. 2 has no right, title and interest over the suit property and has no right execute any deed in favor of defendant no. 1 and since, 23.08.2018, the defendants are claiming their title on the basis of the said deed and are trying to oust the plaintiff from the suit property and also are trying to change the nature and character of the suit property. Hence, this suit.

On the contrary the defendants denied all the allegation leveled against them laid down in the plaint of the plaintiff. Defendants contended that defendant no. 1 has become the owner of 58.3125 decimals in lot no. 1 of the suit property, 23.5 decimals in lot no. 2 of the suit property and 09.2495 decimals in lot no. 3 of the suit property by way of registered deed nos. 2118 and 2016 from the legal heirs of Laxmi Ghosh. The LRROR is recorded in the name of Upen Ghosh, the son of Bhadu Ghosh. Utkrishna Ghosh, the husband Ghosh got the property being a legal heir of Pratima Ghosh and transferred the same to Defendant no. 1, Gobinda Mondal. The legal heirs

of Laxmi Ghosh transferred their share in the suit property by way of registered deed of sale being no. 2118 dated 01.06.2016 to defendant no. 1. Thus the defendant no. 1 has become the owner of the suit property. The gift deed dated 13.01.1988 stated by the plaintiff in their plaint that Pratim Ghosh transferred her share in the suit property is void and void ab-initio as the father of Pratima Ghosh died on 09.04.1988. Plaintiffs transferred their share in the suit property by way of registered deed of sale being no. 96/2018 dated 04.01.1918 to one Srimanta Mandal. The deed no. 649/1988 is not a gift deed rather a deed of exchange and in the aforesaid deed one side is Dinu Sk and others and his property is not a suit property. Plaintiffs have no right, title and interest over the suit property. Hence, the defendants have prayed for dismissal of this suit.

Decision with reason

Having heard the Learned Advocates for both sides and on perusal of documents filed by plaintiffs it prima-facie appears that both the plaintiff and the defendants are claiming to be the owner of the suit property. It further appears that it is alleged by the defendant the deed upon which the plaintiff has claimed is actually a deed of exchange and plaintiff has no right upon the suit property. As such there are allegations and counter allegations in respect of the execution of the impugned deed. Further from the documents, it prima-facie appears that the plaintiff had stated that they are in possession of the suit property and the defendants are trying to oust them but the same is challenged by the defendants. Further on perusal of materials on record and the documents so filed by the plaintiff, I am of the considered opinion that at this stage there is no scope for taking any evidence. Protection of a property from being wasted or transferred till the final disposal of the suit is the essence of granting injunction, or else, the suit itself gets frustrated. Since, the contending contentions of both the plaintiff and the defendants require evidence to get proved and this is not the stage to take evidence.

Hence, it is

ORDERED

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

By virtue of this order of temporary injunction, Both parties are directed to maintain status-quo in respect of the nature, character and the possession of the suit property until final adjudication.

To that effect extension application stands disposed of.

Both parties are directed to appear personally for examination under Order X of CPC. Extension petition being redundant is thus rejected.

To 20/05/2025 for Examination under Order X of CPC.

D/C by me,

Sd-/ Priyanka Shaw
Civil Judge (Junior Division)
Lalbagh,
Murshidabad

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