

WBND070002402024



Title Suit/170/2024

Present : Rajib Sarkar

JO Code WB01509

GANESH JANANI BAROYARI COMMITTEE Vs. MALATI GHOSH

Later ...Order no. 01

Dated 12.08.2024

Ld. Advocate for the plaintiffs moves the ad-interim injunction petition.

The record is sent to the Sheristadar for caveat noting who gives a report stating no caveat being pending.

As such the record is taken up for hearing the ad-interim injunction petition.

The fact of the case in a nutshell according to the plaintiff is that the suit property was gifted in favour of the plaintiff by way of a gift deed executed on 22.03.1995 by Madhabilata Banerjee, Mamoni Banerjee, Subhra Banerjee, Jyotsna Banerjee and Shukla Banerjee. The plaintiff committee is in possession of the suit property and various religious rituals as well as the Rash festival is conducted over the suit property. The defendant is the neighbour of the plaintiff and without having any right, title or interest over the same she is trying to encroach some portion of the suit property and raise some illegal construction on the same. Lastly on 18.07.2024 and 30.07.2024 the defendant tried to encroach over the suit property. The defendant is claiming her right on the basis of two sale deeds being no 1747/2022 and 27/2023 executed in her favour by one Jyotsna Das Banerjee and Sondhya Karmakar respectively. In both the deeds 1 decimal of land each has been transferred in favour of the defendant on the basis of a fabricated heirship certificate of Arunendra Banerjee. The plaintiff is in possession of the suit property and has the ROR in his name. He also has been paying Govt. rent and taxes. As such, the plaintiff has filed the present suit for protecting the possession over the suit property. Hence this instant petition.

In support of his contention, the plaintiff has filed photocopies of certain documents which are as follows :

1. Sale deed being no 27/2023.
2. LRROR in respect of khatian no 9579.
3. Sale deed being no 1747/2022.
4. Two heirship certificates of Arunendra Banerjee.
5. Govt. rent receipt.
6. Gift deed executed in favour of the plaintiff by Madhabilata Banerjee and others along with some other documents.

Heard the Ld. Advocate on behalf of the plaintiff. On consideration of the above mentioned documents and on perusal of the case record, it appears that the gift deed on the basis of which the plaintiff is claiming interest over

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the suit property is and unregistered document and the validity of the same must be determined during trial. However, since the ROR is standing in the name of the plaintiff which shows that the plaintiff is in actual possession of the suit property and because this petition is for protecting the possessory right, this Court is of the opinion that plaintiff has been able to prove a prima facie case in his favour. The balance of convenience and inconvenience tilts in favour of the plaintiff. The plaintiff shall suffer irreparable loss and injury if the defendant is able to **encroach upon the suit property**. The urgency involved is due to the fact that the defendant is allegedly trying to raise some illegal construction over the suit property.

Hence, it is

Ordered

that the prayer for ad-interim injunction in the nature of restraint order is allowed at this stage.

The defendant is hereby restrained from disturbing the peaceful possession of the plaintiff over the suit property without due process of law till the next date of hearing i.e. 12.09.2024

Plaintiffs to comply with the provisions of Order 39 R 3 (a) and (b) of the CPC at once.

Issue notice upon all the defendants calling upon them to show cause within 14 days from the date of receipt of notice as to why the order of temporary injunction shall not be passed against them.

Requisites at once.

To 12.09.2024 for S/R and S/C.

(Dictated and Corrected by me)

Sd/-
Civil Judge(Jr. Divn)
Nabadwip, Nadia

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