

later dated 30/09/2024

Record is taken up for hearing of ad interim injunction.
No caveat is pending as per report of the sheristadar.
This is a suit for declaration and permanent injunction.

The factual matrix of plaintiff's case is that plaintiff's mother is the absolute owner of the suit property. As per the averment of plaintiff, defendant no. 2 misrepresented and executed a power of attorney in favour of herself by claiming that she is the authorized constituted attorney of plaintiff's mother. By dint of the power of attorney, defendant no. 2 executed one deed of gift in favour of defendant no. 1. Thus, plaintiff avers that presently defendant no. 1 and 2 are trying to change the nature and character of the suit property by entering into a development agreement with defendant no. 3. By filing this temporary injunction application and moving this ad-interim injunction plaintiff prays for restraining the defendant to change the nature and character of the suit property by any construction or altering and trying to create any third party interest over the suit property.

To support the suit, the plaintiff filed the following documents, copy of sale deed, copy of gift deed, copy of development agreement, copy of power of attorney, copy of aadhaar card and copy of Misc. C case 7 of 2024 for perusal of this Court.

Perused the plaint, injunction application and documents filed by the plaintiff. Considered.

On perusal of the documents it transpires that plaintiff by instituting this suit has questioned the execution of power of attorney. Thus, plaintiff has proved a prima facie case which needs to be adjudicated by taking evidence. It is fact that plaintiff had right, title and interest in the suit property. More so, plaintiff was dispossessed by the defendant. Thus, plaintiff has established a prima facie case fit to go for a trial. Presently urgency is reflected. At this stage, balance of convenience and inconvenience is tilting towards plaintiff. If this ad interim injunction is not granted in favour of the plaintiff then plaintiff might suffer an irreparable loss which cannot be compensated in terms of monetary benefit. Therefore, it shall cause greater inconvenience to the plaintiff than to the defendant. Thus, the prayer of ad interim injunction of plaintiffs is allowed at this stage.

Hence, it is,

O R D E R E D

that the prayer for ad interim relief is hereby considered and allowed at this stage.

The defendants and their men and agents are restrained from creating any third party interest with respect to the suit property till next date.

The defendants and their men and agents are further restrained from changing the nature and character of the suit property till next date.

The plaintiff is directed to comply the provisions of order 39 Rule 3(a) and (b) CPC positively.

Issue notice upon the defendant to show cause within 7 days from the date of receipt of this order as to why the order of temporary injunction shall not be granted as per the prayer of the plaintiff.

The plaintiff is directed to put in requisite at once.

Office is directed to issue the same.

To date. (06/01/2025)

Civil Judge (Jr. Divin)
Bidhannagar
J.O. Code : WB 01536