

21-02-2019

The case record is taken up for hearing application u/o.39 rule 1&2 read with section 151 of CPC filed by the plaintiff.

Perused the plaint, affidavit, said application and photostat copies of documents filed by the plaintiff. No caveat is pending as per the report of the sheristadar.

By filing the instant petition the plaintiff inter alia prays for restraining the defendants from raising any construction work over the schedule mentioned property and from changing nature and character of the B-Schedule property.

The plaintiff's case in nutshell is that the plaintiff and the defendant got interest in the suit property in respective portion mentioning in the deed executed by Kanailal Bera vide registered deed being No. 9615 of 1963 in favour of the plaintiff and predecessor in interest of defendant No. 1. The plaintiff alleged that the defendants are trying to encroach B-Schedule property.

Considered. Issue notice upon the defendants to show cause within 10 days from the date of receipt thereof as to why an order of temporary injunction shall not be granted against him.

Heard Ld. Advocate on behalf of the plaintiff. On perusal of the deed, it appears that in his the plaintiff averred that the deed No. 9615 of 1963 had been executed by Kanailal Bera but on perusal of deed the plaintiff filed only photocopy, it transpires that the deed had been executed by Nani Gopal Bera. In the circumstances, this Court is of the view that the plaintiff may have prima facie case but the opportunity should be given to the defendant to be heard and in doing so, this Court is of further opinion that object of granting injunction shall not be defeated by delay.

Hence it is

O R D E R E D,

that the prayer for temporary injunction on ad-interim basis is refused at this stage. Plaintiff to file requisite.

D/c by me

CJ (Jr. Divn.)
Bidhannagar

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