

Title Suit No. 02 OF 19 CIS 56 OF 19
CNR WBNP18-000066-2019

20-04-2022

Today is fixed for hearing of injunction petition Under Order 39 Rule 1 & 2 read with Section 151 of C.P.C.

Both parties file hazira.

Defendants file W.O against the injunction petition.

Plaintiffs also file extension petition praying for extension of ad-interim order on the grounds stated therein.

Now, the record is taken up for hearing of injunction petition filed by the plaintiffs U/o-39 Rule – 1 and 2 r.w. Sec. 151 of CPC.

Heard the Ld. Advocate for both sides.

Now, the record is taken up for passing order.

The plaintiffs/petitioners filed a petition U/o.39 rule 1&2 read with section 151 of CPC. By filing this petition, the plaintiffs/petitioners have prayed for issuance of temporary injunction restraining the defendants from obstructing plaintiffs' occupation or dispossessing them from their peaceful possession and enjoyment of the suit property whatsoever till disposal of this suit.

During the course of hearing, Ld. Advocate on behalf of the plaintiffs submits that the plaintiffs are the owner of the suit property and defendants unlawfully claiming their rights over the suit property. So, injunction should be granted to preserve the suit property for interest of justice.

On the contrary, Ld. Advocate for the defendants during the course of hearing submitted that there is a family settlement entered between the parties to the suit. So, injunction petition is liable to be rejected.

On perusal of the petition, plaint, other connected documents and after going through the submission made by the Ld. Advocates of both sides, this Court is of the opinion that plaintiffs come before this court with clean hand and an equitable relief in the form of injunction should be granted in favour of any person who approached the court with clean hand. In the above circumstances, this Court is of the opinion that the utmost criteria to grant the temporary injunction the Court look into the

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three principles i.e 1. prima facie case, 2. balance of convenience and inconvenience and 3. irreparable loss. This Court finds that prima facie it appears that the plaintiffs are in possession of the suit property. It also appears that balance of convenience and inconvenience is also lie infavour of the plaintiffs. Moreover, if an order of temporary injunction is not granted in favour of the plaintiffs, then plaintiffs will suffer irreparable loss. Considering the above this Court is inclined to allow the temporary injunction in favour of the plaintiffs.

Hence, it is

O R D E R E D

that the order dated 07.01.2019 is hereby made absolute till disposal of this suit.

That the petition Under Order 39 Rule 1 & 2 read with Section 151 of C.P.C is allowed on contest and disposed of accordingly.

Fix 20-06-2022 for framing of issue, discovery and inspection, if any in the meantime.

D/c by me

CJ (Jr. Divn.)
(JO CODE WB01423)
Bidhannagar

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