

later dated 13/05/2024

Ld. Advocate of the plaintiff moves a petition u/o.39, R.(1) and (2) r/w section 151 of CPC.

No caveat is pending as per report of the Sheristadar.

Record is taken up for hearing of ad-interim injunction petition.

This is a suit for permanent injunction.

The factual matrix of plaintiff's case is that plaintiff is the owner of the suit schedule property being no. 17/1, S.B. Neogi Garden Lane, PS Baranagar, Kol 36 by dint of purchase. The defendant no. 2 and 3 are trying to erect an unauthorized building between the two premises without giving sufficient and mandatory space violating the BM Act and Rules. On protest a hot altercation took place. The same incident has been brought to the notice of Baranagar Police Station and Chairman of Baranagar Municipality, yet no steps has been taken by either of them. Plaintiff further affirms that said unauthorized construction is seriously hampering his easementary and natural rights. By filing and moving this ad-interim injunction plaintiff prays for restraining the illegal construction work without keeping a statutory gap while undertaking the necessary construction work at schedule B property mentioned in the application.

To support the case, the plaintiff has filed the following documents, copy of the deed of conveyance dated 12/10/2012, municipal tax bill, GDE along with complaint dated 29/04/2024, complaint letter before Municipality and copy of aadhaar card for perusal.

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

Prima facie it appears that plaintiff is the owner of the suit property. Thus plaintiff has certain inherent natural rights appertaining to the property. Presently, plaintiff has raised a triable issue before this Court which needs adjudication. 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 defendants. Thus, the prayer of ad interim injunction of plaintiff 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 defendant no. 2 and 3 and their men and agents are hereby by restrained from constructing any structure upon the property as specified in the schedule C of the application u/o XXXIX Rule 1 and 2 of CPC 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 no. 2 and 3 to show cause within 20 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.(19/07/2024)

Civil Judge (Jr. Divin)