

later dated 07/10/2024

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, deed cancellation and permanent injunction

The factual matrix of plaintiff's case is that plaintiff's husband became the owner of the suit property by dint of a gift deed. As per the averment of plaintiff after their marriage, two children were borne out of the wedlock. It is stated by plaintiff that plaintiff husband Dipak Banerjee often remained ill for which house help was appointed who is impleaded as defendant no. 1. It is further claimed by the plaintiff that defendant no. 1 forcibly took plaintiff's husband Dipak Banerjee to a secluded place and on the very next day Dipak Banerjee was found dead. It has been averred by the plaintiff that the deed of gift which has been executed by plaintiff's husband is void ab initio. By filing this temporary injunction application and moving this ad-interim injunction plaintiff prays for restraining the defendant no. 1 from creating any third party interest with respect to the suit property.

To support the suit, the plaintiff filed the following documents, copy of complaint letter to BL2 LRD, Barrackpore II, copy of complaint letter to officer in charge, Nimta PS, copy of legal heir certificate from North Dum Dum Municipality, copy of order sheet being MP no. 2774/2024 along with application petition, copy of postal receipt, copy of deed of gift being no. I 7862, copy of deed of gift being no. I 02421, copy of deed of gift being no. 4538, copy of complaint letter to Barrackpore Police Commissionerate, copy of tax receipt from North Dum Dum Municipality, copy of legal heir affidavit issued by Judicial Magistrate, at Barrackpore, copy of aadhaar card of Ritali Banerjee and Rajdeep Banerjee, copy of voter card of Ritali Banerjee and Rajdeep Banerjee, copy of birth certificate of Rajdeep Banerjee, copy of death certificate of Ronodeep Banerjee, copy of death certificate of Dipak Banerjee for perusal of this Court.

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

On perusal of plaint and documents annexed therewith it transpires that plaintiff has instituted this suit based on a surmise that the gift deed executed by her husband is obtained by coercion. More so, at the time of hearing Ld. advocate for the plaintiff submits that plaintiff's husband is a neurotic patient yet no documents has been produced to show that plaintiff's husband was a neurotic patient. Plaintiff has miserably failed to prove a prima facie case in his favour. At this stage balance of convenience and inconvenience are not in favour of plaintiff. At the same time defendant should be heard before passing any order against plaintiff. At this stage, this Court is not inclined to allow the prayer of the plaintiff.

Hence, it is

O R D E R E D

that the temporary injunction petition on ad interim basis is refused at this stage.

Issue notice upon the defendants to show cause within 30 days (ensuing annual puja vacation) 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 plaintiffs.

The plaintiffs are directed to put in requisite at once.

Office is directed to issue the same.

To date. (21/01/2025)

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