

order dated 13/11/2024

The case record is put up today.

The put up prayer is allowed.

The 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 declaration, permanent injunction and mandatory injunction.

The factual matrix of plaintiff's case is that plaintiff claims to be co-sharer of the suit property along with defendants. Plaintiff further states that defendants are her siblings and mother. As per the averment of plaintiff, defendants are trying to illegally grab the joint property in their name. By filing this temporary injunction application and moving this ad-interim injunction plaintiff prays for restraining the defendants and their men and agents from illegal and unauthorized construction on the undivided suit property without proper permission and / or alienating the suit property to any third party, stranger and purchaser.

To support the case, the plaintiff has filed following documents, a copy of power of attorney, copy of EPIC card, copy of aadhaar card, copy of ration card, copy of registered post letters dated 09/10/2020, 27/10/2020, 18/11/2020, 04/01/2021, copy of marriage certificate along with letter dated 04/12/2018, copy of photographs of old tiles shaded house, copy of photographs of on going unauthorized construction, copy of letter to the Chairman of Baranagar Municipality and copy of order of Ld. Executive Magistrate, Barrackpore for the perusal of Court.

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

On perusal of the documents it transpires that plaintiff is one of the legal heirs of late Santosh Kumar Sinha. On prima facie perusal it transpires that plaintiff is one of the legal heirs and has equal shares in the suit property. Thus, plaintiff has established a prima facie case in her favour. Urgency is reflected from the injunction application. There is a bona fide case fit to go for trial. 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.

Defendants and their men and agents are restrained from undertaking any construction over the suit property without adjudication of the rights of the parties till next date.

Defendants and their men and agents are further restrained from creating any third party interest with respect to 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 defendants 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 (11/02/2025)

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