

Order no. 02 dated 22.05.2024

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 and injunction.

The factual matrix of plaintiff's case is that plaintiff is the owner of the suit property. The same was gifted to him by his grand mother Kamalamoyee Mondal @ Kamala Mondal on 03/03/2017. As per the averment of plaintiff, defendants M/S New Paradies Enterprise, approached the plaintiff with development agreement and power of attorney. The terms of agreement was orally settled but when the written document came into being the terms were altered and by force defendant make plaintiff to sign a development agreement and power of attorney on 20/04/2022. Plaintiff further claims that he requested defendant to rectify the same but he refused to do so. As per the averments of plaintiff defendants are trying to enter into the suit property forcibly and are demolishing the first floor of the suit property. Plaintiff has lodged a criminal complaint with the Nager Bazar Police Station on 15/05/2024. By filing this ad-interim injunction plaintiff prays for restraining the defendants forcefully entering or occupying the suit property and / or disturbing the peaceful possession of the plaintiff.

To support the suit, the plaintiff filed following documents, police complaint dated 15/05/2024, copy of voter ID of Kamala Mondal, copy of voter ID Sankari Mondal, copy of voter ID of Sukumar Mondal, copy of prescription of Sankari Mondal, copy of gift deed, copy of sale deed, copy of power of attorney for perusal.

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

On careful perusal, prima facie it appears that plaintiff is the owner of the suit property. Defendants are presently trying to dispossess plaintiff by force. There is a prima facie case fit to go for trial. Urgency is reflected from the application of injunction. The balance of convenience at the nascent stage is lying in favour of 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 defendant. 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 ad interim stage.

The defendants and their men and agents are hereby restrained from dispossessing the plaintiff from the suit property without following the due course of law till the next date.

Defendants and their men and agents are hereby restrained from disturbing the peaceful possession of the plaintiff till the next date.

Defendants and their men and agents are further restrained from forcefully entering into the suit property till the next date.

The plaintiff is directed to comply the provisions of order 39 Rule 3(a) and (b) CPC positively, in default whereof the order shall stand vacated automatically.

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 (07/08/2024).

Civil Judge (Jr. Divin)