

T. S. No. 291 of 2022Order No. 2 dated 11.11.2022

Record is placed on the basis of put up. The plaintiffs have filed a petition U/O 39 rule 1 & 2 read with Sec. 151 C.P.C. and has prayed for an order of interim injunction. Perused the note of the office which shows that no caveat is filed.

Perused the injunction application, plaint and the documents filed by the plaintiffs.

Heard, the Ld. Lawyer for the plaintiffs.

The plaintiff's case as stated in the plaint is that the suit property originally belonged to the predecessor of the plaintiffs and defendants and after demise of the predecessor of the parties to the suit, the suit property was devolved upon the plaintiffs and defendants having undivided shares each. But dispute cropped up regarding the joint enjoyment and possession of the suit property for which the plaintiff requested the defendants for amicable partition, but the defendant did not pay any heed to such request. Plaintiffs' further case is that the defendants are trying to raise illegal construction by demolishing the existing structure depriving the legitimate right of the plaintiffs over the suit property for which the plaintiff has prayed for order of ad-interim injunction against the defendant.

I have heard the learned advocate appearing for the plaintiff and perused the application and the document available on the record.

It is settled principle of law in granting the temporary injunction the Ld. Court must be satisfied that the applicant has a prima facie case to go to trial and that protection is necessary from that species of injury known as irreparable loss and that the mischief or inconvenience likely to arise from withholding injunction will be greater than is likely to arise from granting it. The instant suit is a suit praying for partition and other ancillary relief.

I am of the considered opinion that there is a prima facie case in favour of the plaintiff and I am also opinion that if the injunction is not granted then the property may be alienated. I am also in considered view that at this stage the suit property should be protected, in default there may be a multiplicity of suit and further if the injunction is not granted, the plaintiff would sustain an irreparable loss and injury. It also transpires that balance of convenience and inconvenience is

also in favour of the plaintiffs.

Considering the facts and circumstances, this court is of the considered opinion that neither party will be prejudiced if an order of status quo is granted in favour of the plaintiffs.

Hence, it is

O R D E R E D

that both the plaintiffs and defendants are hereby directed to maintain status quo over the suit property as mentioned in the schedule of the plaint and injunction application in respect of nature, character and possession of the same as on this date till next date.

Plaintiffs are directed to comply the provisions of order 39 rule 3 (a) (b) CPC.

Requisite at once.

To 19.12.2022 SR.

Dic & corr. by me

Civil Judge (Sr. Divn.), Sealdah

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