

T.S 489 OF 2022

Order dated 14.03.2023

To-day is fixed for passing order.

Plaintiff files hazira through his Ld. Advocate.

Plaintiff submits that, on 02.02.2023 the record was fixed for injunction petition and no steps has been taken by the defendant on that day and this Court passed order for filing show-cause by the defendant. Plaintiff prayed for fixed the suit on exparte.

The Ld. Recorded Advocate on behalf of the defendants appeared before this Court and submitted that defendant has already filed Caveat and that's why the plaintiff could not move the adinterim order but till today defendants did not get any copy of injunction petition and copy of the plaint from the plaintiff and that is the reason the defendants could not make ready for hearing of injunction petition fixed on 02.02.2023.

Heard both the sides.

Perused the record.

Considering facts and circumstances of this suit, this Court is found that, the Ld. Advocate who appeared on 02.02.2023 on behalf of the defendants is the recorded Advocate of the defendants and the said Ld. Advocate of the defendants submitted before this Court that till date he had not received any copy of plaint and copy of injunction petition but the plaintiff submitted that, all the copies have been served upon the defendants with firisty and that firisty has been filed before this Court on 17.04.2022 and lying with this record. It is clear from the said firisty that the copy of injunction petition and the plaint has been served by the plaintiff to another Advocate who is not the recorded Advocate of the defendant.

In this juncture, this Court hold that, there is a mis communication between the plaintiff and defendant relating to the service of copies of plaint and injunction petition and show-cause order has been passed against the defendants. This Court found no fault from the side of the defendants.

Hence, the order dated 02.02.2022 has been recalled.

To 06.06.2023 for hearing of injunction petition, W/O in the mean time.

The plaintiff is hereby directed to serve the copy of injunction petition and plaint along with all the copies of the documents to the defendants positively.

D/C by me.

**Civil Judge (Jr. Div) 2nd Court
Sealdah.**

