

T. S. 286 of 2022Order dated 09.11.2022 (Latter)

The plaintiff has 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 plaintiff.

Heard the Ld. Lawyer for the plaintiff.

The plaintiff's case as stated in the plaint and injunction application is that plaintiff and proforma defendant became the joint owners of the premises no. 137A/1B, Satin Sen Sarani, Kol – 54. The defendant is the owner of the adjacent premises i.e. the suit property which is situated at the northern portion of the premises no. 137A/1B, Satin Sen Sarani, Kol – 54. Now, dispute cropped up as the defendant without any obtaining any sanction plan and without obtaining any permission from the KMC, had made an illegal construction violating the building Rules of KMC in the absence of the plaintiff and proforma defendant during puja vacation depriving the legitimate right of the plaintiff. Moreover, the defendant and his men are creating disturbances in the peaceful possession and enjoyment of their premises as being adjacent owners of the suit property when having no alternative plaintiff has filed the instant suit and has prayed for ad-interim injunction against the defendants.

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 declaration and other ancillary relief.

I am of the considered opinion that there is a prima facie case in favour of the plaintiff and if the injunction is not granted then the property may be alienated. At this stage the suit property should be protected in default there may be a multiplicity of the suit and further if the injunction is not granted, the plaintiff

would sustain an irreparable loss. In my view the balance of convenience and inconvenience also lies in favour of the plaintiff at this stage.

Considering the facts and circumstances, this court is of the considered view, that the plaintiff is entitled to an order of ad-interim injunction.

Hence, it is

O R D E R E D

that the defendant and his men and agents are hereby restrained from making any further construction over the suit property and also further directed not to create any disturbances to the peaceful possession of the plaintiff as on this date, till next date.

Plaintiff is 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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