

Misc Appeal no. 36 of 2021 (F-36/21)

Later dated 13.09.2021

From the noting of the dealing assistant it is found that there is no caveat in this case.

The instant Misc. Appeal is taken up on the point of admission hearing. Heard the Ld. Advocate for the appellant/plaintiff, perused the impugned order and memo of appeal and considered. The appeal is filed within time. There is sufficient prima facie grounds to admit the instant appeal. Accordingly, the appeal is admitted.

The appellant/plaintiff is directed to file requisites with process fees for service of notice upon the respondents at once.

Office is directed to issue notice on receipt of requisites.

Ld. Lawyer for the appellants/plaintiffs moves the petition under order 39, rule 1 and 2 of CPC submitting that plaintiff/appellants has inherited the suit property. Defendants/respondents are trespassers in respect of the suit property but they are trying to change and character of the suit property and as such, it is necessary to pass ad-interim order of injunction against the respondents/defendants.

Heard Ld. Lawyer for the appellants. Issue notice calling upon the respondents/defendants to show cause within 10 days of the receipt of the notice as to why the appellant's prayer for order of injunction shall not be allowed.

Considering the submission of Ld. Lawyer for the appellant and on perusal the materials available in the case record, it is found that appellants/plaintiffs have become the owner of the suit property by way of inheritance. So, it is found that plaintiffs/appellants have shown the prima facie case to go to the trial. As there is chance of changing the nature and character of the suit property at any moment balance of convenience and inconvenience and irreparable loss and injury are in favour of the appellants. Considering urgency of the matter and to avoid multiplicity of the proceeding I am of the view that suit property is required to be preserved in present condition at least for a limited period.

Hence, it is

ORDERED

that both parties are directed to maintain status quo in respect of the nature and character of the suit property of the plaint till 30.09.2021.

The appellant is directed to comply with the provision of order 39 rule 3 (a) (b) of the CPC.

To 30.09.2021 for SR/ AD and appearance.

Let the case record be transferred to the court of Ld. Additional District Judge, FTC, 1st Court, Sealdah for disposal.

To date for for appearance before the transferee court.

D/C by me

ADJ-1

Addl. District Judge,
1st Court, Sealdah.

