

Title Suit No.50 of 2023

Regd No.26 /23

(J.O. Code-WB00823)

Order No. 04

dated : 27.06.2023

The case record is put up on the strength of a put up petition.

Ld advocate on behalf of the plaintiffs file show cause and the same is accepted.

Seen the Caveat note of the Sdr.

Hd Ld Advocate for the plaintiffs in respect of the prayer u/o XXXIX R 1 and 2 r/w s 151 CPC praying for ad interim injunction against the defendants.

Perused the case record and petition u/o XXXIX R 1 and 2 r/w s 151 CPC and the papers and document filed by the plaintiffs.

Considered.

Issue notice upon the defendants directing them to show cause within 7 days of its receipt thereof as to why the plaintiffs' prayer for temporary injunction shall not be granted.

Hd the Ld Advocate on behalf of the plaintiffs who submit in details as to how the plaintiffs acquired his right, title and interest over the suit property and the defendants acquired their right, title and interest over the suit property. The Ld Advocate on behalf of the plaintiffs have submitted that the defendants are interfering with the peaceful possession of the plaintiffs and they have therefore, prayed for an order of ad interim injunction.

Heard. Considered.

This is a suit for partition in which each of the co-sharers have absolute right, title and interest over each inch of land.

In my considered view, the balance of convenience and inconvenience tilts in favour of the plaintiffs and I am of the view that the plaintiffs has a strong prima facie case to go into trial and that the plaintiffs will suffer irreparable loss until and unless an order of ad interim injunction is issued in favour of the plaintiffs.

Hence, the prayer for ad interim injunction is allowed.

Hence, it is

ordered

that the prayer u/o XXXIX R 1 and 2 r/w s 151 of the CPC praying for ad interim injunction is hereby considered and both the parties are directed to maintain status quo in respect of the nature, character and possession in respect of the property described in the schedule of the plaint, till 27.07.2023.

Plaintiffs to file requisites at once complying the proviso laid down u/o XXXIX R 3 (a) and (b) CPC.

Issue notice accordingly.

To date.

Sd/- Sushmita Gayen

D/C

ACJM-cum-CJSD, Kakdwip

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The application under Order 39 Rule 7 CPC filed this day by the plaintiffs is taken up for hearing.

Heard the Ld. Advocate on behalf of the plaintiffs.

Considered.

Perused the plaint and the application under Order 39 Rule 7 CPC.

In the said application under Order 39 Rule 7 CPC, the plaintiffs has prayed for local inspection of this suit property so that the actual picture of the suit property comes before the court and so that the court may arrive at a just and proper decision.

In the application for local inspection, the plaintiffs has expressed his intention to bring on record the true picture of the suit property. Having considered the points of local inspection, I am of the view that it would be just and proper to hold local inspection of the property in dispute. At the same time I am of the opinion that the local inspection sort for is necessary for proper adjudication of the dispute between the parties.

Hence, the application under Order 39 Rule 7 of the CPC filed by the plaintiffs is allowed.

Ld. Advocate **Samrat Chakraborty** be appointed as Commissioner in this case for holding local inspection of the suit property mentioned in the scheduled of the application for local inspection and of the plaint on the points satisfied in the application for local inspection except for taking any measurement and also the Ld. Advocate Commissioner is refrained from passing any opinion as to if any construction has been newly constructed or not.

Ld. Advocate Commissioner is directed to go to the locale after due service of notice upon both the parties and to hold local inspection of the property in dispute on the points mentioned in the application for local inspection and thereafter to prepare a report on the points mentioned in the application for local inspection except for the point as noted above and on any points may be shown by the parties to this suit at the time of local inspection.

To **27.07.2023** for submission of Commission report. In case the Ld. Advocate commissioner fails to submit the report he/she will be required to pay back the commission amount.

The plaintiffs are directed to pay Rs. 2,200/- to the Commissioner as cost of local inspection at an earliest.

Sd/- Sushmita Gayen

D/C
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ACJM-cum-CJSD, Kakdwip

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