

**T.S. 43 of 2022**

**JO Code: 000823**

**Reg. 40 of 2022**

**Order No. 26**

**Date: 20.06.23**

Two applications one dated 12.07.2022 and the other dated 11.04.2023 both filed by defendant no. 1 praying for completion of the incomplete construction on the suit property is taken up for hearing along with objection filed thereto filed by the plaintiff.

Heard the ld advocate on behalf of the defendant no. 1 who submits that the construction was made prior to filing of the suit and suppressing such fact the plaintiff has obtained an order of injunction. He submits that the defendant no. 1 be permitted to complete the construction which he is constructing on his own land.

Per contra the ld advocate on behalf of the plaintiff submits that because the defendant no. 1 was making construction so the plaintiff had been compelled to file this instant suit and there was no suppression of material facts. He further submits that if the defendant no. 1 succeeds in completing his construction then the defendant no. 1 will occupy the entire front portion and the way to ingress and egress to the plaintiff's house will be absolutely blocked and the very purpose of obtaining the injunction will be frustrated.

Heard both sides.

Considered.

Perused the rough sketch map attached to the report of the ld advocate commissioner. Considered.

I totally subscribe to the view of the ld advocate on behalf of the plaintiff that if the defendant no. 1 succeeds in completing the construction work then the very purpose of obtaining the injunction will be frustrated. That apart since the land is unpartitioned land and the defendant no. 1 is making construction on the road side, in future, if the plaintiff obtains a decree of partition then the plaintiff will be deprived from enjoying the front portion of the suit property and the defendant may also face hardship in paying the owelty money.

Considering the above facts and circumstances, I am not inclined to allow the prayer of defendant no. 1 for completing the construction work. Hence, both the applications dated 12.07.2022 and 11.04.2023 stands rejected.

Plaintiff files receipt showing payment of cost of Rs, 200/-. let it be kept with the record.

To 14.08.2023 for SR/AD.

D/C

Sd/-Sushmita Gayen  
ACJM-cum-CJSD, Kakdwip

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