

T. S. No. 65 of 2021
CNR No. WBSP17-000372-2021
(J.O. Code-WB0962)

Order No. 12 dated 04-08-2022

Today is fixed for passing necessary order in respect of the injunction application dated 31.03.2022 filed by the plaintiffs against defendant no. 1 and SR upon rest of the defendants.

Both the parties are present by filing their respective haziras.

Record is taken up for necessary order. I have already heard both the parties.

Perused the injunction application and the written objection.

Considered.

Plaintiffs/petitioners' case, in brief, is that the total area of the suit property in the suit dag no 747 measuring about 66 decimals of land and out of 66 decimals 64 decimals of land belongs to Kedar Chandra Poirra and 02 decimals of land belongs to Rohini Bala Poirra. While Kedar Chandra Poirra was in possession of 64 decimals of suit land, he died leaving behind 05 sons and 03 daughters namely, Achinta Kumar Poirra, Atul Chandra Poirra, Bhusan Chandra Poirra, Sasanka Sekhar Poirra, Chittaranjan Poirra, Tarunia Bala Sahoo, Kullana Bala Patra and Katyayani Giri and as such they inherited the suit property as per Hindu Law and Succession. Atul Chandra Poirra died leaving behind his wife Rohini Bala Poirra and two sons Radhakrishna Poirra and Ramkrishna Poirra and as such they inherited the share of Atul Chandra Poirra in the suit dag. Thereafter, the legal heirs of Kedar Chandra Poirra after his death executed a registered partition deed being no. 4615/90 among themselves in respect of the suit land and the other properties of Kedar Chandra Poirra. As per said registered partition deed Achintya Kumar Poirra gets 50 decimals of land in the suit dag no. 747 and Radhakrishna and Ramkrishna Poirra gets 14 decimals of land jointly in the said suit dag being no. 747. It is also stated that there was 02 decimals of land of Rohini Bala Poirra in the suit dag which she gifted to her two sons. Thereafter, Rohini Bala Poirra died leaving behind Ramkrishna and Radhakrina who inherited the share of Rohini Bala in equal shares. The said Achintya Kumar Poirra sold his 09 decimals of land out of his 50 decimals in suit dag no. 747 to the plaintiffs vide registered sale deed being no. 1338 dated 29.04.92 and sold 24 decimals of land in the suit dag to Radhakrishna and Ramkrishna Poirra vide registered deed being no. 1339. Thereafter, Ramkrishna Poirra gifted his share of 20 decimals of land in the suit dag which he obtained by way of inheriting from his mother and by purchasing from Achintya Kumar Poirra to his brother Radhakrishna on 28.07.2014 by way of registered deed of gift. Achintya Kumar Poirra after selling his 33 decimals of land in the suit dag died leaving behind his wife, two sons Swadesh Ranjan Poirra and Swapan Kumar Poirra and one daughter as his legal heirs and successors who inherited his remaining 17 decimals of land in suit dag. Accordingly, all the co-sharers are in the joint possession of suit property in accordance to their respective shares. It is alleged by the plaintiffs that the suit property is an undivided and has not been partitioned by metes and bounds. Defendants are trying to dispossess the plaintiffs from the suit land and also trying to change the nature and character of the suit property by making new

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construction over it and as such plaintiffs are prayed for necessary temporary injunction against the defendant no. 1 restraining him from changing the nature and character of the suit property.

Defendant no. 1 appeared and filed his written objection. It appears that defendant no. 1 is admitted that plaintiffs are the co-sharers in respect of the suit property but denied the other allegation as made in the said application for injunction.

Considering the rival submission of both parties, I am of the view that the suit property is undivided and has not been partitioned by metes and bounds and the prima facie case has been made out by the plaintiffs to go for the trial, and balance of convenience and inconvenience appears to be in favour of the plaintiffs and it is necessary to preserve the suit property till the disposal of the suit. Accordingly, an order of status quo required to be passed in the instant case to preserve the property in question.

Accordingly, the prayer for temporary injunction filed by the plaintiffs is considered and allowed on contest without any costs.

Hence, it is,

ordered

Both the plaintiffs and the defendant no. 1 are hereby directed to maintain status quo in respect of the suit property regarding its nature and character till disposal of the suit.

To 22.12.2022 for SR upon the rest of the defendants.

Sd/-

ACJM-cum-CJSD, Kakdwip

D/C

Sd/-

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