

T.S. 181 OF 2021
Reg. 97 of 2021

JO Code: WB01068

Order No.23

Date: 19.08.25

Today is fixed for passing order.

Both parties file their respective haziras.

The petitioner u/o 39 rule 1 and 2 CPC is taken up for passing order.

Perused the petition u/o 39 rule 1 and 2 CPC, the WO and the materials on record including the documents filed by the parties.

The case of the plaintiff in brief is that the suit property originally belonged to two brothers Swarup Santra and Chowdhury Santra. Swarup Santra got the suit property from family settlement and after his demise his sons Hrishikesh Santra and Ashok Kumar Santra inherited the suit property. Hrishikesh Santra died issue-less. As a result his brother Ashok Kumar Santra got the suit property. After his demise his two sons Milan Santra and Madhab Santra and his wife Billwadal Santra inherited the suit property. They sold the suit property along with other non suit property to the plaintiff by dint of a registered deed on 17.05.2016. Later on the defendants possessed some portion of the suit property on the basis of permissive possession. Previously plaintiff filed a suit before the Civil Judge (Jr. Division) against the defendants being no. TS 207 of 2017, but the same was withdrawn by the plaintiff with a liberty to refile afresh. Plaintiff has prayed for temporary injunction over 'ka' and 'kha' schedule property.

The defendants no. 1 and 2 filed WO against the said petition. The case of the defendants in brief is that the suit property originally belonged to Girish Chandra Santra. His two sons Hrishikesh Santra and Ashok Santra sold 66 decimal of land of CS plot no. 131 to Budhar Chandra Maity and Niranjana Maity by virtue of sale deed no. 596 dated 02.02.1965. The said property was amicably partitioned in between them and Niranjana Maity had been possessing the suit property. He died leaving behind one son defendant no. 1 and five daughters and wife Subhasini. The suit property is recorded in the name of defendant no. 1 in LR khatian no. 1207. The defendants never possessed the suit property on the basis of permissive possession as mentioned in the plaint. The defendants have mentioned in their additional WO that the defendant no.1 filed appeal against four (4) mutation cases filed by the plaintiff in respect of the suit property. In the said appeal Ld Appellate Court set aside the four (4) mutation cases filed by the plaintiff. Later on defendant no. 1 filed an application before BL & LRO, Pathar Pratima being no. Misc -17/2025 which is pending.

On hearing and perusal it appears in this case the plaintiff filed his title deed. But plaintiff has not filed any document of title of his predecessors in interest. Moreover it appears from the documents filed by the defendants that the LR khatian stands in the name of plaintiff and his predecessors in interest are set aside by the Appellate Court.

In such circumstance I am not inclined to pass any temporary injunction in favour of the plaintiff.

Hence,

it is

Ordered

that the petition u/o 39 rule 1 and 2 CPC is hereby rejected without cost.

To 15.12.2025 for discovery and inspection.

D/C by me

Sd/-
ACJM-cum-CJSD, Kakdwip

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