

Title Suit No.190 of 2024
Regd No. 190/24

(JO Code: WB01068)

Later: dated: 05.12.2024

Seen the Caveat note of the Sdr.

Hd Ld Advocate for the plaintiff 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 documents filed by the plaintiff.

Considered.

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

Hd the Ld Advocate on behalf of the plaintiff who submit in details as to how the plaintiff 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 plaintiff has submitted that the defendants are trying to grab the excess land and to make new construction and also change the nature and character of the suit property as well as threaten to dispossess the plaintiff from the suit property and interfering with the peaceful possession of the plaintiff and ld advocate has 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 plaintiff and I am of the view that the plaintiff has a strong prima facie case to go into trial and that the plaintiff will suffer irreparable loss until and unless an order of ad interim injunction is issued in favour of the plaintiff.

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 04.01.2025.

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

Issue notice accordingly.

D/C by me

Sd/-

Sd/-

ACJM-cum-CJSD, Kakdwip

ACJM-cum-CJSD, Kakdwip

Later:

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

Heard the Ld. Advocate on behalf of the plaintiff.

Considered.

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

In the said application under Order 39 Rule 7 CPC, the plaintiff 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 plaintiff 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 sought 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 plaintiff is allowed.

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Ld. Advocate **Abhayananda Purkait** 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 date 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 plaintiff is directed to pay Rs. 2,200/- to the Commissioner as cost of local inspection at an earliest.

D/C by me
Sd/-

Sd/-
ACJM-cum-CJSD, Kakdwip

ACJM-cum-CJSD, Kakdwip