



Misc Appeal No.29/2025  
Sushanta Das Vs. Shib Prasad Das & Ors

02/25-08-2025.

Record is put up today by the appellant/plaintiff with a prayer for ad interim injunction under Order 39 Rule 1 and 2 CPC on the ground stated therein.

Ld. Advocate for the appellant submitted that he filed the partition suit being Partition Suit no.233/2025 before the Ld. Civil Judge (Sr. Division), Islampur on 10-04-2025. Subsequently, he filed the petition for ad interim injunction under Order 39 Rule 1 and 2 CPC before the Court below on 29-07-2025 against the defendant nos. 3 and 4 who are the respondent nos.3 and 4 of the instant appeal. The respondent nos. 3 and 4 are the legal heirs of the wife of the appellant. He further submitted that respondent nos. 3 and 4 are trying to dispose the undivided property. So, he prays for injunction at least in the nature of status-quo.

Certified copies of documents filed for perusal.

Heard the petition. Perused the case record and considered.

The fact in nutshell is that the wife of the instant appellant i.e. Kalidasi Das purchased 1 Bigha 2 Katha 4 Dhul property of CS Daag no.2092 and 2095 from Sk. Saidur Rahaman, Sk Akbar Hussain and Hamidul Rahaman by way of purchased deed no.8777/1966 and since then she has resided on the property by making house with her family members. She died intestate leaving behind the instant appellant and respondent nos.1 to 8. The property was not partitioned legally. The said respondents i.e. respondent nos.1 to 5, 7 and 8 who are the respective defendants in the original partition suit filed written statement before the Court below against the original suit. Admitted fact that the 1 Bigha 2 Katha 14 Dhul amount of property of CS plot no.2092 and 2095 had been purchased by their predecessor i.e. Kalidasi Das and that was unpartitioned. The instant injunction application filed only against respondent nos. 3 and 4 over the allegation that they are trying to dispose of the property.

On careful perusal of the plaint, it appears that from the schedule of the property as mentioned in the plaint that only CS Plot no.2092 corresponding to RS plot no.5549 to LS plot no.5549 of Mouja-Dhantala, PS-Islampur having 41 decimals of land had been made as the property in dispute of the suit. No record of rights is produced in conformation with the facts mentioned in Para-8 of the appeal memo. Only one reply to RTI has been filed.

From the schedule, it appears that the instant appellant is trying to injunct all the persons having right, title and interest over the said entire plot including the legal heirs of Kalidasi Das. That apart, the property of 1 Bigha 2 katha, 14 Dhul had been purchased from two CS plot nos. according to the original plaint and appeal memo. Those two CS plots are 2092 and 2095 but the respective portion of CS plot no.2095 had not been made in the schedule of this partition suit.

Accordingly, the property owned by Kalidasi Das which devolved to her legal heirs is not found appropriate according to the schedule of the plaint and appeal memo. Therefore, the injunction cannot be allowed on indefinite schedule of property. This Court does not find any balance of convenience and inconvenience, irreparable loss which are not leaning to the appellant and thereby the prayer for ad interim injunction under Order 39 Rule 1 and 2 CPC is rejected at this stage.

A copy of this order be sent to the Ld. Civil Judge (Sr. Division), Islampur.

DA to comply.

Todate

Dictated and corrected

Additional District Judge  
Islampur, Uttar Dinajpur

(Manik Lal Jana) (WB01023)  
Additional District Judge  
Islampur, Uttar Dinajpur

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