

T.S.20/2020
(CIS-16/20)

23/30.05.2023

Today is fixed for ex-parte hearing of the injunction petition.

Plaintiffs are present by filing hazira.

Contesting defendants filed a petition praying for time to file W/S on the ground stated therein.

Heard. Considered and the prayer is rejected.

State defendant filed a petition praying for vacating the ex-parte order on the ground stated therein. The petition is not signed by the concerned representative of the said defendant whereas the W/S as filed with the ex-parte vacating petition is signed by the B.L.&L.R.O., Garhbeta-III, Paschim Medinipur.

Considering the above defect the ex-parte vacating petition is hereby rejected.

Plaintiffs filed a substitution petition praying for substituting plaintiff no.3 who alleged to have died on 14.03.2023.

The petition is taken up for hearing.

The petitioner filed the application under order 22 rule 3 along with photocopy of death certificate stating that the plaintiff no.3 namely, Ramsankar Chakraborty died on 14.03.2023 leaving behind his wife namely, Srimatya Tapasi Chakraborty, his son namely, Anirudhya Chakraborty, his daughter namely, Smt. Soumi Chakraborty as his legal heirs and successors.

Heard Ld. Advocate of both sides.

Perused the petition under Order 22 Rule 3 and the materials available on record, it reveals that the plaintiff no.3 namely, Ramsankar Chakraborty died on 14.03.2023 leaving behind his above mentioned legal heirs and successors and the substitution petition is filed on 30.05.2023 which appears to be well within the prescribed period of limitation. The substitution petition is filed by Anirudhya Chakraborty i.e. the son of the deceased plaintiff.

Hence, it is

Ordered

that the substitution application filed by the petitioner for substitution of plaintiffs is hereby considered and allowed.

Let the above mentioned legal heirs of the deceased plaintiff be substituted in place of the deceased plaintiff namely Ramsankar Chakraborty and numbered accordingly.

BC-I to make necessary note in the relevant register accordingly.

As fixed today the injunction application is taken up for hearing on ex-parte.

This is a suit for declaration and permanent injunction.

Plaintiffs place their reliance upon the certified copy of R.S. khatian no.8/2, 8/4 and 8/3 of Parbati Charan Chakraborty, Bibhuti Bhusan Chakraborty and Pashupati Chakraborty, Order sheet of objection no.17 u/s 44(1) of W.B. E.A. Act, Certified copy of Partition Deed no.3639 of 1970 of Madan Mohan Chakraborty, Parbati Charan Chakraborty and Bibhuti Bhusan

Chakraborty, Certified copies of Sale Deeds vide no.2893 of 2012, 1110 of 1956, 4222 of 1964, 3016 of 1965, 2954 of 1977.

Perused the injunction application, plaint and other materials available on record.

It transpires from the record that vide Order dated 14.09.2020 an interlocutory order has been passed restraining the defendants no.1 to 6 from creating any sort of disturbances and/or interferences in the plaintiff's peaceful use and enjoyment of the scheduled property, in any manner whatsoever.

Heard the Ld. Advocate for the plaintiffs.

Considering all the above facts it appears that there are exists prima facie case in favour of the plaintiffs, the balance of convenience and inconvenience tilts in plaintiff's side moreover there appears that the plaintiffs may suffer from irreparable loss if the order of injunction is not extended. So, in order to preserve the suit property moreover to avoid multiplicity of proceedings the interlocutory order as passed by this Court vide Order Order dated 14.09.2020 is hereby made absolute and extended till the disposal of the suit.

The application for temporary injunction is thus disposed of exparte.

To 01/09/2023 for P.H.

D/C by me,

S/d- Sri Kishor Kumar Chakraborty

Civil Judge(Jr. Division).

Garhbeta, Paschim Medinipur.

S/d- Sri Kishor Kumar Chakraborty

Civil Judge(Jr. Division).

Garhbeta, Paschim Medinipur.

J.O. Code – WB01413