

Order No.9 , Dated 08.08.2025

Today is fixed for passing order in respect of temporary injunction petition u/O. 39 R.1 & 2 of CPC read with section 151 of CPC filed by the plaintiff.

Both the parties are file representative haziras through their Ld. Advocates.

The defendants filed written objection against the instant injunction petition on 19.07.2025 and prayed that the present petition is not at all maintainable in its present form and prayer.Ld. Advocate of the defendants submitted before this Court that the suit property that is plot no 463 and 470 is a joint property or an ejmal property and the plaintiff along with the defendants of this suit are the co-sharers of this suit plot no 463 and 470. He further submitted that the total area of the suit plot no 463 and 470 is 15 decimal and 43 decimal respectively and plaintiff's share is .01 acre or 1 and 1/2th decimal out of 15 decimal in plot no 463 and likewise 10 and 3/4th decimal out of total 43 decimal in plot no 470 and plaintiff has purchased the suit property in the year 2006. He further contended that the defendants became the co-owners of the suit plot no 463 and 470 by purchasing the property from the legal heirs of Haripado Ghosh by dint of registered purchased deed being no 2767 of 1989 and all the defendants have their undivided shares in these suit plots and according to the defendants the suit plots are not demarcated with boundaries as it is still unpartitioned amongst its co -sharers and there are others co shares of these suit plots except the plaintiff and the defendants of this present suit and they are need to be added as parties in this suit. Lastly , Ld Advocate of the defendants submitted that these defendants have already filed one partition suit being T.S. No 613/2025 before the Civil Judge (Sr.Div)1st Court , Paschim Medinipur against this plaintiff of this present suit and these defendants have moved one injunction petition U/O 39 R. 1&2 of C.P.C before that Court and Ld. Court of Civil Judge (Sr.Div)1st Court , Paschim Medinipur has pleased to pass a status quo order in respect of the suit plot which is also the suit plot of that partition suit and ordered both the parties to maintain status quo in respect of the possession , nature and character of that suit property which is also the same in this suit.The defendants prayed for the rejection of the injunction petition .

The plaintiff in his submission stated that plaintiff has purchased the suit property from one Kinkar Mondal by a registered deed of sale in the year 2006 and since then the plaintiff is possession of the suit property. According to the plaintiff the suit plot no 463 and 470 have not partitioned in meats and bounds but all the co – sharers of the suit plots are in possession of their

respective shares as per one amicable partition amongst them and plaintiff's property is properly demarcated as per the Bengali chowhaddi of his purchased deed and according to the plaintiff there is no doubt in respect of the proper demarcation of the plaintiff's share in the suit plot as plaintiff is possessing the landed property exactly as per chowhaddi of his registered purchased deed and that is absolutely correct one. And the plaintiff prayed for the temporary injunction by restraining the defendants from interfering in his peaceful possession and also from raising any illegal construction in the suit property.

Heard & considered.

Peruse all the material of the case record and all the documents of both the parties, which are produced at the time of hearing of the injunction application. According to the plaintiff that he has the suit property with proper demarcation as per Bengali chowhaddi of his deed but on the other hand he admitted that the suit plot is not partitioned in its meats and bounds. It is evident from the documents that is the plot information of the suit plot no 463 and 470, supplied by the defendants that there are other co-sharers of the said plots like the plaintiff and the defendants and suit plot is still is a joint or ejmal property and at the time of submission the plaintiff admitted the same that the suit plot is still a joint property. In this circumstances, when the suit plot is not partitioned amongst the co-sharers with proper demarcation, none of the co-shares could claim his exclusive demarcated share in the suit plot and any order of injunction would prejudice the other co-sharers of the same suit plot. As such, in absence of any partition with meats and bounds of the suit plot amongst its co-sharers, none of the co-sharer could claim his exclusive possession and thus this Court does not find the prima facie of the plaintiff in the suit property for his exclusive possession in the suit property and rejection of prayer of temporary injunction at this time, would not cause irreparable loss and injury to the plaintiff as whatever may be the consequence ultimately the plaintiff would have chance in all probability to get his share in the suit plot as per procedure of law and balance of convenience and inconvenience does not lie in favour of the plaintiff. Hence, it is

ORDERED

That the petition u/O. 39 R.1 & 2 of CPC read with section 151 of CPC filed by the plaintiff be and the same is hereby rejected on contest.

Next date 03/09/2025 for filing written statement by the defendants.

D/c by me

Civil Judge Jr. Div
Additional Cour, Garhbeta.