

IN THE COURT OF MUNSIFF, UDALGURI

09.04.19

Pronoy Deep Borah Vs. Babul Deka

Misc. (J)-01/19 (T.S.-01/19) under order 39, rule -1 & 2

R/W-151 of CPC.

Petitioner/plaintiff is present today. O.P/defendant is absent without any step. Today was fixed for order on this instant petition under order 39, rule -1 & 2 R/W-151 of CPC.

Today is fixed for order in Misc(J) case No.-01/19 has arisen out of title suit no. 01/19 upon a petition filed by the plaintiff/petitioner under order 39, rule 1 & 2 read with section 151 CPC praying for temporary injunction against the defendant/O.P for restricting the defendant/O.P and his agents from entering into the suit land, from dispossessing the plaintiff/petitioner from the suit land and also from any disturbance in the peaceful enjoyment of suit land by the plaintiff/petitioner during the pendency of the title suit pending for disposal.

The brief facts leading to the institution of this petition as is revealed from the record is as follows. That the plaintiff/petitioner being rightful owner and possessor of the suit land has prescribed in scheduled A of the plaint has been enjoying the possession of the suit land as he being the only son of his father and by virtue of the heritage of partition and the petitioner/plaintiff along with his family was in possession of schedule A land exclusively and was residing on part thereon by constructing residential house and by raising various types of seasonal crops on the same part and the planting value of trees over part of the schedule A land and has been paying the land revenue thereof every year regularly. That the O.P/defendant on 24.11.18 at 3 pm along with unknown persons came to the suit land and dispossess the plaintiff/petitioner and his father from the same. While petitioner/plaintiff tried to resist them but defendant armed with weapon therefore one FIR was filed against defendant/O.P. against on subsequent date and O.P/defendant tried to dispossess the plaintiff/petitioner from the suit land and went back by threatening them.

To this petition the O.P did not contest the Misc(J) case 01/19 by filing written objection and I have heard petitioner and also perused the case record.

Prima facie case

The brief case of petitioner is narrated above and it is seen from the perusal of the above that as per the petitioner/plaintiff has been in the possession of the suit land and has been enjoying the possessory rights over it by virtue of inheritance from this father. It is seen from above facts that petitioner/plaintiff has raised triable issues and as such it is held that petitioner/plaintiff has prima facie case for grant of temporary injunction.

BALANCE OF CONVENIENCE.

It is seen that petitioner/plaintiff has been dispossessed from the suit land by O.P and petitioner has apprehension that O.P may again dispossess from suit land. Hence balance of convenience is in the favour of petitioner.

IRREPARABLE LOSS OR INJURY

The contention of the petitioner/plaintiff that if the temporary injunction for restricting the defendant/O.P and his agents from entering into the suit land, from dispossessing the plaintiff/petitioner from the suit land during the pendency of the title suit pending for disposal is not granted then it would cause irreparable loss.

In view of above discussion it is seen that petitioner/plaintiff has prima facie case for grant of temporary injunction; balance of convenience in his favor for grant of injunction against the defendant/O.P for restricting the defendant/O.P and his agents from entering into the suit land from dispossessing the plaintiff/petitioner from the suit land. Any further disturbance in the enjoyment of peaceful possession of petitioner.

Considering the above O.P/defendant is directed to maintain the status quo till the disposal of the suit.

The Misc.(J)-01/19 case is allowed on ex-parte.



Munsiff Udalguri