

T.S. 01/2018

Order No. 11 dated 01.08.2019.

Plaintiff filed an application under Order 39 R 1 and 2 of C.P.C., praying for issuing an order of *temporary* injunction against the defendants over Schedule property.

The Ld. Advocate for the plaintiff moved the application under Order 39 R 1 and 2 read with Section 151 of C.P.C with a prayer for restraining the defendants their men and agent from disturbing the peaceful possession of the plaintiff from the Schedule property.

This is a suit for declaration, partition and permanent injunction.

The main contention of the application under Order 39 R 1 and 2 read with Section 151 of C.P.C filed by the plaintiff is that the plaintiff and the defendants herein are the owners of the suit property to the extent of 1/4th share each by virtue of inheritance from their predecessors. It was further submitted that the suit property is an unpartitioned property. It has been alleged that defendant no. 1 being arrogant and rude refused to make partition of the suit property and is presently trying to change the nature and character of the suit property by alienating the same without any intimation to the plaintiffs herein. The plaintiff therefore prays for an order of temporary injunction.

The defendant contested the instant application by filing written objection wherein they have admitted the 1/4th share of the plaintiff but has refuted the contention of the plaintiff that they want to alienate the suit property in order to deprive the plaintiff from his share. The Ld. Advocate has therefore prayed for rejection of the instant application.

Heard the submission.

On perusal of the record, I find that it is the admitted case of the contesting parties that the plaintiff and the defendants have the share to the extent of 1/4th share each. The dispute lies with the fact that the defendant no. 1 is trying to alienate the suit property and also changing the nature and character of the same in order to deprive the plaintiff of his lawful right. The facts as alleged whether are true are the matter of trial but at this stage, it can well be construed that being the co-sharers both the plaintiffs and the defendants have their rights over the suit property to the equal extent.

In the present circumstances, I find *prima facie* case balance of convenience and inconvenience and possibility of irreparable loss and injury in favour of the plaintiff herein. I therefore, find sufficient justification in allowing the instant petition.

Hence, it is

Ordered

that the instant petition praying for *temporary* injunction is allowed on contest with a direction upon both the contesting parties to maintain status quo over the suit property as on this date and not to change the nature and character of the suit property till disposal of the suit. It is specifically stated that the defendants are restrained from alienating the entire suit property till disposal of the suit.

The instant petition is accordingly disposed off.

Fix _____, for framing of issues.

D/C by me.

Sd/-

**Civil Judge (Sr. Divn.),
Serampore, Hooghly.**

Sd/-

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Serampore, Hooghly.**

