

O.S. 1 of 2019

Order No. 2, dated 11.01.2019

The record is taken up today on strength of put up petition for hearing of the petition under Order 39 Rule 1 read with Section 151 CPC filed by the plaintiff.

Now, the record is taken up for ad-interim injunction hearing.

No caveat is pending as per the report of the Sheristadar.

Issue notices upon the defendant directing him to file show cause within 15 days from the date of receipt of such notice as to why the petition for temporary injunction shall not be granted as per the prayer of the plaintiff.

Contd...

O.S. 1 of 2019

Order No. 2, dated 11.01.2019 (Contd...)

Heard Ld. Advocate for the plaintiff in respect of the petition under Order 39 Rule 1 read with Section 151 of CPC supported by affidavit who submitted that defendant No. 1 is the owner of the suit property. The plaintiff is a bargadar in the suit property under the defendant No. 1. The plaintiff is cultivating the entire 1.11 acre property and giving the share of the produce to the defendant No. 1 on regular basis. The plaintiff has obtained barga certificate in respect of 1 acre in the suit property from the Government of West Bengal. The defendant No. 1 has never granted any receipt as there was cordial relationship between plaintiff and the defendant No. 1. But recently the defendant No. 1 conspiring to evict the plaintiff from the suit property and threatening the plaintiff. Hence, this petition for ad-interim injunction.

The plaintiff has filed by way of firisti photocopy of barga certificate, LR plot information of the suit property in support of his contention.

Considering the facts of the case and on perusing all the materials available on record, this Court finds that the plaintiff is able to establish prima facie arguable case in his favour. Balance of convenience and inconvenience also tilts in his favour as if injunction is not granted there is possibilities of dispossession. Considering the nature of the dispute, this Court thinks at this early stage of litigation, protection in respect of the suit property to the plaintiff is required otherwise there is possibilities of irreparable damage in respect of suit properties to the plaintiff. Moreover, considering the urgency and the prayer in the petition, this Court is inclined to allow the prayer of the plaintiff.

Hence, it is

Ordered

that the prayer for ad-interim injunction under Order 39 Rule 1 read with Section 151 of CPC is considered and allowed against the defendants.

Both parties are directed not to change the nature, character and possession of the schedule suit property as it stands on this day till next date.

Plaintiff is also directed to comply with the provision of Order 39 Rule 3(a) (b) of the CPC at once.

Requisite at once.

To 12.02.2019 for injunction hearing, W/O, if any in the meantime.

Dictated & Corrected by me.

C.J. (Jr.), II, Bmp.

Sd/-
Civil Judge (Jr. Divn.), 2nd Court,
Berhampore, Murshidabad.