

T.S. 01/2018

**Order No.2 dated 02.01.2018**

Today on the ground of urgency as canvassed under Order 39 Rule 1, 2 and 3 (proviso) CPC with no caveat and that court fees being correct, on the ground of urgency this court has taken up the instant petition for hearing.

It is admitted position of the plaintiff side that they along with the defendants are co-sharers over the suit premise. Now the plaintiff side claims that the defendants are trying to oust plaintiff no.1 mainly from the suit premise and accordingly the plaintiff side desires for a declaration with respect to their respective shares.

This court holds that the nature of relief, as claimed by the plaintiff side, befits a partition suit wherein apart from declaration of share, injunction can also be prayed for for appropriate causes. But since this is a mere declaration suit with a prayer for injunction, this court holds that there can be no injunction against the co-sharers as it is a settled law. Especially since this is a suit for declaration with respect to the individual shares, this court holds that the plaintiff side is better to file a regular partition as per law and norms.

In such circumstance, there is no scope to grant any injunction in this declaratory suit against the co-sharers.

Hence, it is

**o r d e r e d**

that the prayer for ad-interim injunction fails.

Fix to date for the plaintiff side who is served with the show-cause to satisfy the court as to why the instant plaint shall not be rejected for not having a proper cause of action and not being in proper form.

To date for show-cause.

Dict. & Corrected  
Sd/- S. Dey  
Civil Judge (Jr. Divn.), 2<sup>nd</sup> Court  
Baruipur, South 24-Parganas

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