

**Order No-
Date -**

অদ্য এ.ডি আর ও পরবর্তী আদেশের জন্য দিন ধার্য আছে। বাদীপক্ষ একখানা দরখাস্ত দাখিল করিয়া অস্থায়ী নিষেধাজ্ঞার আদেশ বর্ধিতকরনের প্রার্থনা করেন। এছাড়া অপর এক দরখাস্ত দাখিল পূর্বক ১নং বিবাদীপক্ষের মূল দলিলাদি দাখিলের প্রার্থনা করে।

দেখলাম। নথি পর্যালোচনায় প্রতীয়মান হয় যে, অত্র মামলায় মূল দরখাস্ত শুনানীর অপেক্ষায় রয়েছে। মূল বাদী ও ১ নং বিবাদীপক্ষ উপস্থিত পাওয়া গেল। অস্থায়ী নিষেধাজ্ঞা বর্ধিতকরনের দরখাস্ত নামঞ্জুর করা হলো। নথি মূল নিষেধাজ্ঞা দরখাস্ত শুনানীর জন্য নেওয়া হলো।

১ নং বিবাদীপক্ষ ফিরিস্তি সহকারে মূল কাগজাদি দাখিল করেছেন। নিষেধাজ্ঞা দরখাস্ত বিষয়ে উভয়পক্ষের বিজ্ঞ কৌসুলি কে শ্রবন করলাম।

Now the record is taken up for necessary order.

This interim petition is filed by the petitioner under **Order -39 Rule 1/2 read with section 151 of C.P.C** praying to pass an ad-interim injunction order against the **opposite party no.1** restraining him from transgressing into the suit land or from changing nature and character of the suit land in any manner during pendency of the instant suit.

The plaintiff-petitioner's case in brief is

that the suit land originally belonged to **Ram Krishna Sardar who died leaving 02 sons Basanta Kumar and pran Krishna. Later on Basanta Kumar died leaving Chandra Kumar and Tunu Ram as his legal heirs. Lastly by family settlement Chandra Kumar got the suit property. Chandra Kumar died leaving a son Nolini Sardar and he died leaving the plaintiff as his heirs. The plaintiff has been owned and possessing the suit land since his predecessor. It is the allegation of the plaintiff that due to erroneous B.S records, the opposite party no.1 is now trying to enter into the suit property forcefully and trying make boundary wall over the suit property; he also threatened the plaintiff to dispossess him from the suit land which prompted him to file this instant petition for of temporary injunction.**

On the other hand, the O.P no.1 denying all material allegation of the petition filed a written objection contending *inter alia* that suit land belonged to Soshi Kumar and Girish Chandra whose name was duly recorded in R.S

Khatian no. 407. Soshi Kumar died unmarried as such Girish become the owner of whole share. Girish died leaving a wife Abala Bala who transferred by 04 nos of Kabal 4+4+4+4 = 16 decimals on 8.6.1970 infavor of Puni Bala and her husband Dinbondhu. Accordingly B.S field Porcha has been prepared in their name. But in final publication, the B.S khatian was published in the name of Soshi Kumar who was shown to be resident of India and the property was classified as Kha schedule property. Despite that, this defendant has mutated his name vide Mutation Khatian no.1849. Thus the OP no.1 has been being owned and possessed the suit property without any interference.

The plaintiff with a view to grab the suit land has brought this injunction petition with a malice intention. As they are in possession of the disputed land so the temporary injunction petition shall liable to be rejected.

Points for determination:

1. Whether the plaintiff has good frima facie and arguable case?
2. Whether the balance of convenience and inconvenience is favor of the plaintiff ?
3. Whether the plaintiff has possibility of irreparable loss?

For brevity and convenience of discussions all the above points are taken together.

Perused the petition for temporary injunction, the written objection against the petition and the documents submitted by both parties in support of their claim.

It appears that though the plaintiff claims that he has been owned and possessed the suit property since the time of his predecessors but in view of the 04 nos of Kabala e.g 4404, 4405, 4406 and 4407 filed bu the O.P that their parents purchased the entire 16 decimals land from the heir of R.S recorded tenant Girish. The Mutation khatian proves the facts that the opposite parties are in possession of the suit property.

As the plaintiff's possession in the suit land is questionable, he is not entitled to get any equitable relief by way of passing temporary injunction. Thus the balance of convenience and inconvenience is decided to be in disfavor of the plaintiff. Moreover the plaintiff will not suffer any irreparable loss if the injunction is not granted in his favor.

Considering such position, this court finds no merit in the petition for temporary injunction as preferred on behalf of the petitioner.

Hence,

it is ordered

That the prayer for temporary injunction preferred under Order XXXIX Rule -1 and 2 read with 151 is hereby rejected after considering the situation as above mentioned above.

To ----- for ADR.

D/C by Me

Md. Hasan Zaman

Senior Assistant Judge

Assistant Judge Court, Boalkhali
Chattogram

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Assistant Judge Court, Boalkhali
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