

**Order No-6**  
**Date -26.5.2024**

Now the record is taken for hearing of injunction petition. Heard learned advocate for both parties regarding injunction petition.

Then the record is taken for necessary order.

This order is directed in response to an application filed by the petitioner under **Order 39 R 1 & 2, r/w Sec 151 of the CPC** praying for granting temporary injunction.

**The petitioner's case in brief is** that the suit land originally belonged to Bipin and Mohon Lal whose name was duly recorded in R.S Khatian. By amicable settlement Bipin got lands of suit plot and thereafter gifted the same to his son Noni Gopal on 25.04.1970. B.S 1287 Khatian was prepared in his name. Though in B.S khatian the suit land was wrongly termed as vested property but by O.S No. 22/96 he released the property. Thereafter on 04.05.1981 Noni Gopal transferred the same land in favor of the plaintiff. Since then he has been in possession of the suit land. It is specific allegation of the petitioner that on 12.05.2024 the opposite parties having no right title and interest over the suit land threatened the plaintiffs to dispossess and change nature of the suit land which prompted the petitioner to bring this instant petition.

**On the other hand the defendants No.1 denying all material allegation of the petition filed a written objection contending *inter alia*** that land measuring 4 decimals of B.S plot no.12830 and non-suited 4 decimals of plot no. 12829 belonged to Bipin Chandra who gifted those properties to his son Noni Gopal in the year 1970. Noni Gopal on 25.09.2001 transferred 04 decimals land in favor of Abdus Salam and Monirul excluding the lands which goes for the road of UP. After several transfer Azizul Haque purchased that land on 25.07.2011 and got his name mutated vide mutation Khatian No. 6106. It is further case of the defendants that they are in possession of suit land. The plaintiff 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.

In view of petition it appears that plaintiff sought injunction over 04 decimals lands of B.S plot no.12830.

In view of documents filed by the plaintiff it appears that the original owner Bipin gifted the suit property to his son Noni Gopal in the year 1970 and from Noni Gopla the scheduled 04 decimals lands of B.S plot no.12830 was purchased by the plaintiff on 04.05.1981 vide Kabal no.1983 which was registered in the sub-registry office of Sitakundu. The O.P claimed that Kabala as forged and fabricated.

In view of the documents filed by the O.P it appears that the said Noni Gopal on 25.09.2001 transferred 04 decimals of non-suited B.S plot no.12829 in favor of Abdus Salam and Monirul and after several transfer lastly the defendant No.1 purchased the said land and mutated his name vide mutation Khatian No. 6106.It is claimed by the O.P that both the disputed plot no.12830 and non-disputed plot no. 12830 are adjacent and lands of these two plots are within the same compound. It is also claimed by the O.P that about from these two plots 1080 sqf lands was used for roads of Union Parishad. It appears that the plaintiff conceals this very fact in the petition.

From the above discussion I find that both the disputed plot no.12830 and non-disputed plot no 12829 contains 4 decimals lands each. The plaintiff purchased from disputed plot No 12830 and the defendant no.1 purchased from non-disputed plot no. 12829. Both the parties purchased land from the same vendor Noni Gopal. Since it is a suit for permanent injunction the possession of the plaintiff is very vital here. Where there lies an allegation on the part of the defendant that some lands have been gone for road purpose of Union Parishad it cast a doubt regarding the possession of the plaintiff. It appears to me that without a local investigation into the suit land it is very much difficult at this stage to infer the possession of the plaintiff in the suit land since no documentary evidence in support of the possession plaintiff are found in the record. On the other hand the Mutation Khatian in the name of defendant No.1 proves the very fact that the defendant is in possession of the non-suited land which is alleged to be the suit land. Though it is matter of trial but the alleged deed of plaintiff which has been

registered in in Sitakunda Sub-registry office instead of Boalkhali sub-registry office also cast a serious doubt regarding the genuineness of the deed. Since there lies serious doubt regarding the plaintiff's possession in the disputed land 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 plaintiffs. Moreover the plaintiffs 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.**