

Order No-
Date -

Today is fixed for passing necessary orders on the injunction petition. Both the plaintiff and Defendant No.1 are present and have filed their respective haziras.

The record is now taken up for passing the necessary order.

This is an application filed by the petitioner under Order 39, Rules 1 and 2, read with Section 151 of the CPC, seeking a temporary injunction to restrain Defendant No.1 from entering or dispossessing the plaintiff from the suit land, or from altering the nature and character of the suit land, or transferring the same to third parties until the final disposal of the suit.

The petitioner's case, in brief, is that the suit land, measuring 39 decimals of R.S. Plot No. 12146 under R.S. Khatian No. 197, originally belonged to Abdul Majid, who passed away, leaving two sons, Nur Ahmed and Saleh Ahmed. In 1966, Nur Ahmed transferred 11 decimals by way of "Asiatnama" in favor of Abdul Haq, Abdul Khalek, Abdul Malek, and Abdul Razzak. Abdul Khalek later gifted 2.50 decimals to his son, Plaintiff No.1, whose name was mutated vide Mutation Khatian No. 14382. Plaintiff No.2, Abdur Razzak, received 2.75 decimals by the said "Asiatnama." B.S. Khatian No. 562 was prepared in the name of Plaintiff Nos. 1 and 2, who have been in possession of the suit land by cultivating it and growing various trees. On 25.04.2024, Defendant No.1, without any legal right, title, or interest, threatened to dispossess the plaintiffs from the suit land, prompting the present application.

Defendant No.1, in their written objection, denied all material allegations. The defendant contends that the suit land, measuring 39 decimals of R.S. Plot No. 12146, originally belonged to Abdul Majid and was transferred by his son, Nur Ahmed, on 28.03.1953 via Kabal No. 1855, in favor of Hamid Ali's son, Nur Ahmed. Subsequently, Nur Ahmed gifted 11 decimals of land to Ahmed Sofa on 26.06.1961 and later transferred another 11 decimals by "Asiatnama" in 1966 to Abdul Haq, Abdul Khalek (Defendant No.1), Abdul Malek, and Abdul Razzak (Plaintiff No.1). Additionally, Abdul Majid's wife, Somuda Khatun, transferred 5 decimals of land to Saheb Mia on 03.05.1967. The remaining heirs of Abdul Majid sold 30 decimals to Defendant No.1 on 10.03.1999. The defendant claims to be in possession of the suit land, having planted trees and erected a two-storied building. The defendant alleges that the plaintiffs have filed this injunction petition with malicious intent, and as

they are in possession of the disputed land, the injunction petition should be rejected.

I have carefully perused the submissions of both parties and their respective documents. It appears that the plaintiffs have filed the present suit seeking a simple declaration of title over 5.25 decimals of land in B.S. Plot No. 15793, corresponding to R.S. Plot No. 12146. After an assessment of both parties' documents, it is evident that the suit land measuring 39 decimals of R.S. Plot No. 12146 originally belonged to Abdul Majid, who had two sons: Saleh Ahmed and Nur Ahmed. Nur Ahmed transferred part of the land via Kabal No. 1855 on 28.03.1953, and he later gifted another portion on 26.06.1961. Both parties admit that 11 decimals of land were transferred through "Wasiatnama" No. 13 dated 09.07.1966 in favor of Abdul Haq, Abdul Khalek, Abdul Malek, and Abdul Razzak.

It is clear that Plaintiff No.1 received 2.50 decimals of land as a gift from Abdul Khalek, and Plaintiff No.2 received 2.75 decimals of land via "Wasiatnama," which has been acknowledged by Defendant No.1. This gives the plaintiffs a prima facie title to 5.25 decimals of land. The mutation of Khatian No. 14382 and the investigation report of Miscellaneous Case No. 404/2024 further substantiate the plaintiffs' possession of the suit land. Thus, the plaintiffs have successfully established a prima facie case.

In light of the above, I find that the balance of convenience favors the petitioners. The plaintiffs could suffer irreparable hardship if the status of the suit property is altered during the pendency of the suit. Therefore, an order of status quo concerning the nature, character, possession, and alienation of the suit property is appropriate to preserve the interests of both parties.

It is hereby ordered that the plaintiff-petitioners and Defendant No.1 are directed to maintain status quo regarding the transfer, alienation, nature, character, possession, or any disturbance over the suit property as described in the plaint until further orders of this Court.

The petitioner is directed to take the necessary steps to comply with this order immediately.

List the matter on _____ for further proceedings.

D/C by Me

Md. Hasan Zaman
Senior Assistant Judge
Senior Assistant Judge 2nd Court, Patiya
Chattogram

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