

01-12.2021
Court No.1
FB/gsd
(13).

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CIVIL REVISIONAL JURISDICTION
(Via Video Conference)**

CO 86 of 2021

Nukunishwari Roy @ Sharmila Roy
Vs.
Bharat Roy and others.

Mr. Bhaskar Roy Mahashaya

... For the Petitioners.

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

The petitioners are the plaintiffs in a Partition Suit.

In the Partition Suit the petitioners made a prayer for grant of an *ad interim* injunction restraining the defendants, their men and agents from raising any construction over the undivided suit property.

Learned Counsel for the petitioners submits that specific pleadings to such effect were made at paragraph 2 of the injunction application filed before the Learned Trial Court.

The petitioners allege that through several registered Deeds of Conveyance the co-sharers/the defendants in the Partition Suit who are the O.P. nos. 1, 2 and 3 in this application, are transferring slices/portions of the suit land in favour of third parties/companies and such third parties are

raising construction over the undivided suit land.

Learned Counsel for the petitioners submits that both the Learned Trial Court and the Learned First Appellate Court fell into error by not protecting the present nature and character of the suit property although both the Courts (*supra*) noticed the existence of several registered Deeds of Conveyance in respect of the self-same suit property.

The petitioner submits that in the event rampant construction is allowed to take place by the third parties over the suit premises in the guise of registered Deeds of Conveyance, the ultimate relief in the Partition Suit as claimed by the petitioners of demarcation of 1/4th share being the legal heirs of predecessor-in-interest shall stand negated.

No caveat is lodged.

Heard.

Considered.

This Court finds sufficient merit in the urgency raised by the petitioners to protect the suit property from further alienation.

This Court finds from the materials discussed by both the Learned Trial Court and the First Appellate Court that the existence of the registered Deeds of Conveyance have been noticed.

However, purely on the basis of their probative value in the suit, relief has been denied to the petitioners.

It is a well settled proposition that in a partition suit, the suit property should be preserved in the manner so as to facilitate the ultimate relief.

Accordingly, pending hearing of the injunction application, all the parties shall maintain the *status quo* as on date in respect of the right, title, possession, nature and character over and of the suit property until the Injunction Application is finally heard.

Learned Trial Court is directed to complete the hearing of the injunction application without granting any unnecessary adjournment to the parties and preferably not later than a period of three months from the date of communication of this order.

CO 86 of 2021 stands accordingly **disposed of**.

All parties to act on the server copy of this order duly obtained from the official website of the Hon'ble High Court Calcutta.

(SUBRATA TALUKDAR, J.)