

Assam Schedule VII. Form No. 143

HIGH COURT FORM NO. (J) 13  
Form of Order Sheet

DISTRICT- SONITPUR

IN THE COURT OF MUNSIF NO. 1, SONITPUR, TEZPUR  
PRESENT : Shri V. Bhuyan

Misc(J) Case No. 121 of 2022  
(In Connection with T.S 92 of 2022)  
- Versus -

| Sl No. of Orders | Date       | Order  | Signature |
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|                  | 15.11.2022 | <p>Both parties are represented.</p> <p>Today is fixed for order.</p> <p>With the following order I intend to dispose of this Misc.(J) Case.</p> <p>Petitioner's case in brief is that petitioner has submitted that the deceased father of the petitioner purchased the suit land in schedule A and was in peaceful occupation of the same. The petitioner has submitted that the three sale deeds by way of which the petitioner's father purchased the suit land clearly mentions that the eastern side of the suit land is owned by one Hema Deka. Further, petitioner has submitted that suit land in schedule B was purchased by the petitioner which was subsequently enforced by specific performance of contract of sale in T.S 42/2018. Accordingly, the petitioner got his name mutated in the revenue record with respect to</p> | Contd...  |

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| <p>15.11.2022<br/>Contd...</p> | <p>suit land in schedule B. Now, as per the petitioner the opposite parties seeking partition of the land in possession of the petitioner and is attempting to take forceful possession of the same. Hence, the petitioner has prayed for temporary injunction against the opposite parties on the ground that the opposite parties are attempting to dispossess the petitioner with respect to the suit land by trying to cloud the petitioner's right, title and interest by frustrating the specifications of the suit land. That petitioner has submitted photocopies of jamabandi, sale deeds etc, as a supporting document.</p> <p>Notice was issued to opposite party and the opposite party appeared upon receipt of notice and submitted their written objection, wherein the opposite party has denied the averments made by the petitioner in their petition and has further stated that the petitioner does not have any more land than what has been mentioned in schedule A of the petition. The opposite parties stated that they have every right, title, interest over their share of the lands under rest of the dags and pattas. Schedule B suit land is under the possession of opposite parties and hence there arises no question of encroachment over schedule B suit land.</p> <p>I have perused the case record and</p> | <p>Contd...</p> |
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| <p>15.11.2022<br/>Contd...</p> | <p>also bestowed my anxious consideration on the submissions made by the learned counsels of both the parties.</p> <p>Now, as per law, to pass an order of injunction under Order 39 Rule 1 and 2 of CPC, 3 basic principles namely (a) prima facie case, (b) balance of convenience, and (c) irreparable laws and injury has to be considered. [<i>Makers Development Services (P) Ltd. V. M. Visvesvaraya Industrial Research &amp; Development Centre, (2012) 1 SCC 735</i>].The grant of ad-interim temporary injunction is an equitable relief.</p> <p>Now, coming to the instant case, Prima facie it is seen that the schedule land as mentioned in schedule B is purchased by the petitioner through a sale deed and therefore he has the proper probability to claim the title of the land. The expression prima facie means at the first sight or at the first appearance or on the face of it or so far as it can be judged from the first disposal. Thus, it can be safely held that there is a prima facie case for the trial.</p> <p>Balance of convenience is the comparative mischief or prejudice that may be caused as a result of non grant of injunction will be greater than what is likely to arise from granting it. On strength of the sale deed executed between the petitioner and opposite party 1 &amp; 2,</p> | <p>Contd..</p> |
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| <p>15.11.2022<br/>Contd..</p> | <p>the petitioner has been able to show he has bona fide claim over schedule B suit land measuring 8 bighas and he has the right to seek relief in respect of the said suit land and property. On further perusal of the pleadings, there appears to be counter allegations leveled against each other. From the petition it is revealed that the petitioner apprehends that the during pendency of the suit the opposite parties are trying to cloud petitioner's right, title, interest by frustrating the specifications of schedule A and B land as mentioned in the petition. The petitioner alleges that the opposite party and their men, agents and representatives are continuously threatening the petitioner and trying to dispossess him from schedule B land and also trying to influence the revenue officials for change in the revenue record of the said suit land. The opposite parties are denying the said allegations. This matter in dispute in between the parties over which the parties are at loggerheads is to be decided at the trial on the basis of detail appreciation of the evidence on record in the title suit, and therefore, if during the pendency of the suit, the suit land is transferred or the petitioner is dispossessed from his land as mentioned in schedule B, then the petitioner would suffer greater inconvenience.</p> <p>The petitioner's apprehension that</p> | <p>Contd..</p> |
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| <p>15.11.2022<br/>Contd..</p> | <p>opposite parties are trying to disposses him from the schedule land have clouded his right over the land showed bona fide apprehension that in the event dispossessing the petitioner from the suit land, the petitioner will suffer irreparable loss. The golden principles for deciding a petition for temporary injunction tilts in favour of the petitioners at this juncture and so the prayer of the petitioner seeking temporary injunction is allowed.</p> <p>The Opposite parties are restrained from causing any disturbance, obstruction to the petitioner/plaintiff in his peaceful possession over the plaint schedule A and B land as per specification mentioned in sale deed Nos. 1034 dated 31/05/1990, 1867 dated 15/11/1990, 19/03/1991 and 946 dated 11/05/2021 of Tezpur Senior Sub-Registry Office.</p> <p>The parties are further directed to maintain status-quo over the suit land until disposal of T.S. 173/2018. Misc(J) Case is allowed and accordingly disposed of on contest.</p> <p>No cost is imposed.</p> |  |
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