

DISTRICT – JORHAT

COURT OF : MUNSIFF NO.1, JORHAT

PRESENT: MRS. ACHMA RAHMAN, MUNSIFF NO.1, JORHAT

CASE NO.: MISC.(J) 30/2013

Cinnamara Nabadaya Hindi Vidyalaya –Vs–Smti. Jamila Begum

Sl. No.	Date of order or proceeding	Order or other proceeding	Signature of court	Office action taken on order with date and ex-dated signature of pleaders or parties when necessary
1	2	3	4	5
	1.08.13	<p>Order arises out of a petition being No. 1244/13 filed U/O 39 Rule 1 & 2 of C.P.C.</p> <p>Petitioner's case in brief is that it is a public institution in the name and style "Cinnamara Nabadaya Hindi Vidyalaya" for the purpose of rendering education to the public at large.</p> <p>It is stated that the petitioner school is situated on a plot of land measuring 2(two) bighas covered by Govt Cadastral dag No 98, under Garmur Mouza, Cinnamara Tea Estate , within Jorhat East Revenue circle. That the managing authority of Cinnamara Tea Estate the actual,real and legal title holder of the plot of land mentioned in schedule A ,upon which petitioner's school is situated, has accorded its no objection certificate to the petitioner plaintiff regarding continuing and running the school in their land .It is further stated that opposite party without any cause and reason started to construct a permanent structure on a piece of land mentioned in schedule A and demanded herself to be the owner of the land. That inspite of resistance raised by the school authority with the assistance of local people the defendant No.1 could not be prevented from making further encroachment and as such the instant petition.</p> <p>O.P. filed written objection denying and challenging inter alia the claims of the petitioner and further stated that she acquired possessory right over land measuring 1 Katha,17 Lochas, vide registered Agreement bearing No.1 dtd.27/7/2012. That she acquired the possessory right in respect of 1 Katha 17 lochas of land situated at Cinamora grant, Garamur Mouza, Plot No.390, cadastral Dag No.99 from Md. Naushad Ahmed and prior to</p>		

Naushad Ahmed, one person viz. Ramija Begum was in possession of the land. That since the days of Ramija Begum till the possession of defendant No.1 over the land, there was no objection or any intimation from the part of proforma defendant No.2, i.e. Manager, Cinamora Tea Estate. It is also stated that petitioner is in possession of entire schedule 'A' land and schedule 'B' land is not the land under possession of Defendant No.1. That the area of schedule 'A' which include schedule 'B' is bounded by pucca boundary wall since last 15 years and as such no question of encroachment arises. It is also stated that the boundary stated in Schedule 'B' is does not tally to that of the boundary of defendant No.1's land and as such prayer has been made to dismiss the petition.

Perused the Plaint, petition and available materials on record which prima-facie reveals that petitioner is occupying 2 Bighas of land of Cinamora T.E. which is covered by Dag No.98 on being allowed by Manager, Cinamora Tea Estate. However, from the submission as well as from the documents filed by Defendant No.1, it reveals that defendant No.1 had purchased the possessory right in respect of 1 Katha 17 Lochas of land covered by Dag No.11 (old) 99 (new) of Plot No.390 from one Md. Naushad Ahmed and as per their submission, she is peacefully possessing the land since the date of her purchase and prior to her , Naushad Ahmed and Ramija Begum were in possession of the said land and that her land is not included in the suit land.

Perusal of schedule of Agreement as well as the suit land, reveals that the Dag Nos. and boundary of both the land are also different. Moreover, although the plaintiff has stated that defendant encroached the land of schedule 'B' i.e. the suit land but materials on record is not prima facie sufficient to show that O.Ps. have encroached the land or have started any type of construction over schedule 'B' land and as such I am of the prima-facie opinion that at present there is no prima-facie case to go for trial.

So far balance of convenience is concerned, it prima-facie appears that O.P. has been possessing the land which is acquired by her from Md. Naushad Ahmed and as such she has every right to enjoy her property unless and until she is restrained following due process of land as such I am of the considered opinion that allowance of the petition

would place the opp. Party in more inconvenient stage than that of the petitioner and may also cause irreparable loss and injury which cannot be compensated in terms of money.

In view of the above facts & circumstances the injunction petition is rejected.

Misc.(J) case is disposed off on contest.

**Mrs Achma Rahman,
Munsiff No 1, Jorhat.**