

Misc. Appeal 21 of 2022

Present : Sri Gourab Sen,(**J.O. Code.WB01090**)
Additional District Judge,
Fast Track Court 5, Barasat,
District- North 24 Parganas,

CNR- WBNPC-001627-2022

Ferns Forest Sales Private Limited
Plaintiff / Appellant.

- Versus -

1. Sri Jhantu Chanda,
2. Sri Bidhan Chandra Sarkar,
3. Smt. Purnima Rani Sarkar
Defendants / Respondents

Date of delivery of judgement : 28.11.2025.

J U D G E M E N T

The instant Misc. Appeal preferred by the appellant challenging the order dated 21.01.2025 passed by the Ld. Civil Judge (Senior Division), 2nd Court, Barasat in Title Suit No. 66 of 2022 by which Ld. Trial Court rejected the prayer of plaintiff for ad-interim injunction and being aggrieved by the order the plaintiff preferred this appeal on the ground stated therein.

The back ground of the case which compelled appellant to prefer this appeal is that he filed Title Suit No. 66 of 2022 for declaration that Registered General Power of Attorney executed by the appellant in favour of defendant no. 1 Jhantu Chandra is void and invalid, further declaration that registered deed of sale executed by plaintiff through attorney in favour of defendant nos. 2 and 3 is also void and invalid along with petition for interim injunction so that respondents are restrained from alienating the property and dispossessing the plaintiff.

Ld. Trial Court rejected the ad-interim prayer for injunction with the following observations :

“ Upon considering the submission made by Ld. Advocate for the plaintiff and on perusal of the materials on record it appears that the plaintiff has not been able to establish a prima facie case in his favour which allows him to go into trial. It further appears that there is no urgency in the matter. In view of such facts and circumstances this court is not inclined to allow for prayer for ad-interim injunction.”

In this case the defendant nos. 2 and 3 never appeared respondent no.1 though appeared subsequently for non appearance ex-party hearing was fixed against him.

Points for decision.

Whether the impugned order dated 21.01.2025 passed by the Ld. Civil Judge (Senior Division), 2nd Court, Barasat suffers from impropriety, illegality and erroneous or not ?

DECISION WITH REASONS

On perusal of the record it appears that the appellant by virtue of registered deed of conveyance purchased the schedule property but subsequently on the basis of general power of attorney respondent no.1 sold out the schedule property to respondent no.2 and 3. The appellant claimed that the signatures of employee of the appellant company namely Utpal Mondal as appeared on the face of the said purported General Power of attorney was done by false personification as well as the photograph of said Utpal Mondal was also false one. It was further alleged that the general power of attorney was prepared fraudulently and by false personification. The power of attorney holder ie respondent no.1 Jhantu Chanda appeared in Title Suit No. 66 of 2022 as well as in Misc Appeal No.. 21 of 2022. However , there is no whisper in the plaint of Title Suit No. 66 of 2022 whether any complaint was lodged or any criminal case was filed for false personification as alleged. There is also no whisper whether appellant took immediate steps for cancellation of the general power of attorney. Respondent no. 2 and 3 purchased the property by registered deed executed by respondent no.1. The principle who gave the power of attorney namely Utpal Mondal is not a party in the title suit. The Trial Court refused to grant any ad-interim injunction without giving opportunity to respondent no. 2 and 3 . It appears that in the light of the above discussion, the order passed by Ld. Civil Judge (Senior Division), 2nd Court, Barasat does not suffers from any illegality.

On going through the materials on record I am also of the view that the Ld. Trial Court passed the aforesaid order rightly and this court is of the view that there is no illegality and impropriety in passing the order on 21.01.2025 in Title Suit No. 66 of 2022 and as such I am of the view that the said order does not suffer from any irregularity and call for no interference from this court and the said order is very much sustainable both in law and facts. The interim order dated 17.02.2022 passed in this Misc Appeal is vacated.

This Misc Appeal fails accordingly.

Hence, it is

Ordered

that the Misc. Appeal being no. 21 of 2022 be and the same is dismissed on contest.

The impugned order dated 21.01.2025 passed by Ld. Civil Judge, (Senior Division), 2nd Court, Barasat in Title Suit No. 66 of 2022 is hereby affirmed.

Ld Trial Court is requested to dispose of the interim injunction application without granting unnecessary adjournment.

Let a copy of this order be sent to Ld. Trial Court for information and necessary action.

Let the L.C.R be returned.

Dictated & corrected by me.

Additional District Judge,
Fast Track Court No.5, Barasat,
North 24-Parganas,
(**J.O. Code.WB01090**)

Additional District Judge,
Fast Track Court No.5, Barasat,
North 24-Parganas,
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Memo No.

Dated

Copy forwarded to Ld. Civil Judge, (Senior Division), 2nd Court, Barasat in Title Suit No. 66 of 2022 for his information and taking necessary action.

Additional District Judge,
Fast Track Court No.5, Barasat,
North 24-Parganas,
(**J.O. Code.WB01090**)