

SMCST/1/2014

ORDER

ORDER BELOW EXH. 06 IN H.R.P.SUIT No.1/2014

Shri K.D.Choksi, Learned Advocate for the plaintiffs.
-----, Learned Advocate for the defendants

Coram :- Mr. Shailesh S.Joshi (Judge)

ORDER:-

1 Heard. The learned advocates for the plaintiffs. In the present application the plaintiffs are an owner of the suit premises which is narrated in para 1 of the said application. The rent of the suit premises is of Rs.36/-. and all the taxes are liable to be paid by the defendants. The plaintiffs have apprehended that recently the defendants are trying to sublet, transfer, or assign the suit premises to third party with a view to earn higher premium. The plaintiffs have apprehended that recently the defendants are trying to sublet, transfer or assign the suit premises to third party with a view of earn higher premium. Therefore, plaintiffs have filed this application to restrain the defendants their men,

agent, servant, etc., from transferring, assigning, subletting the suit premises to third party and further restrain from making any alteration or modification in the suit premises.

2 Notice / summons are duly served to the defendants, but defendants have not appeared before the court, and he has not filed the reply against the application.

3 On taking into consideration the pleadings as well as evidence of the parties following points are emerges for my consideration and determination for final decision of this application which reads as under:-

P O I N T S

- 1 Whether the case of the plaintiff is prima-facie?
- 2 Whether the principle of balance of convenience tilt in favour of the plaintiff?
- 3 Whether the refusal or denial of the injunction results into irreparable injury to

the plaintiff which can not be compensated in terms of money?

4 What order ?

4 My answer to the above points are as under:-

1 In the affirmative.

2 In the affirmative.

3 In the affirmative.

4 As per final order.

5 My reasons to the above reply of points are as under:-

REASONS

Joint discussion of points No. 1 to 3:-

Taking into consideration, the facts of the case on my hands, it reveals that in the present application the plaintiffs are the landlord and defendants are tenant in respect of the suit premises and it apprehension of the plaintiff that defendants are about to transfer and making alteration and modification of

the suit premises and if defendants transfer and making alteration and modification of the suit premises it cause serious injury to the ownership right of the plaintiffs over the suit premises and as a plaintiffs it is the right to the plaintiffs, to preserve the suit premises in its original condition and prevent the property from being transferred to third party. Further, the transfer and making alteration and modification would give rise to multiplicity of case. In such as case, plaintiffs have to face legal litigation against the other person due to which they have to suffer greater hardship and inconvenience. On the other hand, being a tenant, the defendants have no right to enter into any transaction regarding the transfer of the suit premises with third party and making alteration and modification. Therefore, if the injunction as prayed for is granted, it would in no manner cause any hardship, irreparable injury to the defendants-tenants. In such a case, plaintiffs have got strong prima-facie case as well as principle of balance of convenience and irreparable injury also are in favour of the plaintiffs. Hence being a landlord the plaintiffs are entitled to injunction as all the three

points are in favour of the plaintiffs. Hence I pass following order in the interest of justice:-

O R D E R

- 1 The present application of the plaintiffs is hereby allowed.
- 2 The order passed earlier below this application at Exh.6 is hereby made absolute till final disposal of this suit.
- 3 The costs of this application shall be cause of this suit.

Signed and pronounced in the open court today i.e.,:
29/04/2014.

(Shailesh.S.Joshi)
Judge
Code No. (GJ00527)
Small Cause Court No.06
Ahmedabad.