

Order Below Exh.6 in P.S.R.P No.17 of 2019

Coram: Mr. Amit Harish Narang, Judge.

1) The applicant has filed the present application to get temporary injunction against the opponent.

2) The brief facts of the applicant's case are as under:-

The applicant had rented application premises narrated in para-1 of the P.S.R.P. Application to the opponent for doing chemical business at the monthly rent Rs.8,500/- by executing rent agreement dated 16.08.2003. The opponent has closed the chemical business from many years and therefore, business license has rejected and electricity connection has disconnected and the rights of rent agreement came to an end as the Pollution Control Board has given an injunction to close the chemical business but the opponent has not given the possession of application premises to the applicant inspite of repeated demands from him either one or other excuses and the opponent has given threats the applicant to sublet the application premises to third party by making alteration addition in the application premises and the opponent is trying to make construction work in the application

premises. Therefore to restrain the opponent and for getting possession of application premises, the applicant has filed P.S.R.P Application and present application by rejecting the rent agreement and prayed relief as per para-9 of this application against the opponent.

3) The opponent has been duly served summons / notice of the P.S.R.P. Application as well as this application and the opponent has appeared before the court through his advocate and filed reply vide Exh.15 wherein he has denied almost all the facts of the applicant's case and contended that the applicant's P.S.R.P Application and present application is false, frivolous and vexatious and the applicant has suppressed the material facts before the Hon'ble Court. The applicant has admitted that rent agreement has been executed on dated 16.08.2003 and he has paid rent at the monthly rate of Rs.8,500/- for the period from 2003 to July 2019 to the applicant and the opponent is doing chemical business in name and style of "Shreeji Enterprise" in the application premises. The applicant has given notice dated 17.06.2019 to the opponent and the opponent has given reply on dated 24.06.2019 to the applicant. The Pollution Control Board has closed for production of chemical for short period and they have not closed to do chemical business. The opponent

has repaired the application premises by taking permission from the opponent. The opponent has not given any threats to the applicant to sublet the application premises to third party and he will not make construction in the application premises and sublet the application premises. Rest of the say of the opponent however is in denial. Therefore, the opponent has prayed to reject this P.S.R.P application as well as present injunction application with cost.

4) Heard learned advocate for the parties and perused the record of this case. From the pleadings as well as record of the case, it appears that in the present application, the applicant has prayed relief to restrain the opponent from doing any permanent construction work or alternation in the application premises without taking permission from the applicant and public authority and the applicant has also prayed relief to restrain the opponent from transferring or subletting the application premises to third party. On the other hand, the opponent has stated in his reply that he will not do any construction work in the application premises and he will not sublet the application premises to any third party. If the prayer asked by the applicant will be granted then the opponent will not suffer any hardship rather than applicant as the applicant is landlord of application premises and the opponent has no

right to make any construction work in the application premises and sublet or transfer the application premises to third party. In view of the above premise, I am of the view that apprehension made from the side of the applicant that if at this stage the opponent will not be restrained from doing any construction work in the application premises and also restrained from transferring or subletting the application premises to third party then there is likelihood of multiplicity of proceedings. Therefore, in view of the above discussion and keeping in mind the well settled proposition of law that in a suit relating to the immovable properties, it is always desirable that during the pendency of litigation, the status quo position is required to be maintained so that multiplicity proceeding in respect of the above stated application premises may not arise and at the same time the court has also to consider the factor that the proceedings should go on as far as possible so smooth that the decision can be arrived at between the parties who are on records as early as possible. If on weighing competing possibilities or probabilities of likelihood of injury and if the Court considers that pending the suit, the subject matter should be maintained in status quo, an injunction would be issued. Thus the Court has to exercise its sound judicial discretion in granting or refusing the relief of ad interim injunction pending the suit. Issuing direction to

maintain status quo in relation to the disputed property is a well-known method and the usual order made during the pendency of a dispute for preserving the property and protecting the interest and right of tenant and owner till the adjudication is made. A change in the existing situation is fraught with the danger of prejudicing the rights of both the parties, yet to be determined as the maintenance of status quo during the pendency of the suit is necessary so that the disputed property can be handed over to its true owner found entitled to it after decision of the suit. Thus at this juncture, the applicant has prima-facie case and balance of convenience is also in favour of the applicant rather than the opponent and if the opponent is not prevented from doing any construction work in the application premises and from subletting or transferring the application premises to third party then the irreparable loss may cause to applicant which is not compensated in terms of money. Hence, I pass following order:

O R D E R

- (1) The present application is hereby partly allowed and both the parties are hereby ordered to maintain status quo of application premises till the final disposal of the case.
- (2) No order as to costs.

SMC-PSRP/17/2019

ORDER

Pronounced and signed in the open Court to-day i.e 17<sup>th</sup>  
September, 2019.

Ahmedabad.

Date: 17/09/2019.

(Amit Harish Narang)  
Chamber Judge, UIC No.GJ01312,  
Small Cause Court,  
Ahmedabad.

RATHOD.