

Order Below Exh.6 in H.R.P. Suit No.369 of 2019

Coram: Mr. Amit Harish Narang, Judge.

1) The plaintiff has filed the present application to get temporary injunction against the defendant.

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

The father-in-law of plaintiff had purchased the suit premises narrated in para-1 of plaint by executing registered sale-deed dated 05.04.1999 and became owner of the suit premises and after his death, the husband of plaintiff became the owner of the suit premises and after the death of plaintiff's husband, the plaintiff became the owner of suit premises. The previous landlord of suit premises had rented the suit premises to the father of defendant namely Sanabhai Somabhai Vaghela at the monthly rent Rs.200/- and after the death of father of defendant, his son Pravinbhai became the tenant of the suit premises and he had died in year 1994 and at that time, the defendant and her husband came for last rites but they have kept the possession of suit premises and used to make entry for giving rent of suit premises in name of Sanabhai Somabhai and Pravinbhai without the knowledge of the previous landlord. But the defendant has no any

right over the suit premises under the provisions of Section-5(11)(c)(i) of the Bombay Rent Act and the defendant has started sabotaging work in the suit premises from April 2019 and therefore, the plaintiff has filed H.R.P. Suit No.129/2019 but due to some facts and typing error, the plaintiff has withdrawn that suit but the defendant has made illegal construction of permanent nature and thereby changed the identity of the suit premises and she is trying to sublet transfer the suit premises to third party. Therefore, the plaintiff has filed the suit as well as present application and prayed relief as per para-7 of this application against the defendant.

3) The defendant has been duly served summons / notice of the suit as well as this application and the defendant has appeared before the Court through his learned advocate and filed written statement vide Exh.17 against the suit as well as present application and denied almost all the allegation made by the plaintiff in the suit and contended that the plaintiff's suit is barred by the provisions of the Bombay Rent Act, the Indian Evidence Act, T. P. Act, period of limitation and also barred by the non-joinder and mis-joinder of parties. The plaintiff has not given any attornment notice to the defendant till this date and the plaintiff has to prove her case by producing evidence and

monthly rent of suit premises was Rs.7/- and not Rs.200/- and same has increased by Rs.10/- and the defendant has paid rent to Bharatkumar Savabhai for the period from 01.10.1998 to 31.05.2000 at the monthly rent Rs.10/- for 20 months. The suit premises is very old and in dilapidated condition and in year 1986, the Ahmedabad Municipal Corporation had given notice for the same to the defendant and the landlord had given permission to the defendant to repair the same as and when you manage and amount will be settled from the rent but due to sickness of father and brother defendant, the defendant could not repair the suit premises and thereafter due to earth-quake in year 2001 and 24 hours rain in year 2002 therefore, the suit premises was in habitable condition therefore, the defendant had made repairing work in the suit premises with the permission of Ahmedabad Municipal Corporation and the plaintiff became the landlord of suit premises in year 1999 and till this date, the plaintiff has not seen the suit premises. The defendant was / is using and in possession of the suit premises from more than 30 years without any obstruction or hindrance as tenant of the suit premises. Rest of the say of defendant however is in denial.

4) Heard accordingly and perused the record of the case. Looking to the pleadings, record and arguments advanced

by learned advocates for the parties, it appears prima-facie the plaintiff is owner of the suit premises and regarding construction which is admitted by defendant in para 17 of their reply and I am of the view that apprehension made from the side of the plaintiff that if at this stage, the defendants will not be restrained from subletting, transferring or assigning the suit premises to third party and making any kuccha-pucca construction in the suit premises 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 require to be maintained so that multiplicity proceeding in respect of the above stated suit 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. Therefore considering the above aspects and in the larger interest of justice, I pass following order:-

O R D E R

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

Pronounced and signed in the open Court to-day i.e 18th January, 2020.

Ahmedabad.
Date: 18/01/2020.

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