

**T.S. 462/2022**  
**CNR-WBHG080006332022**  
**JO-WB1447**

**Order No. 2 / Dated:01.09.2022**

Record is put up today at the instance of the plaintiffs.

Ld. Advocate for the plaintiffs moved the petition under Order 39 Rule 1 & 2 read with Sec. 151 of the CPC.

As per the note of the Sheristadar, no caveat case has been filed in connection with this suit till 12.00 pm today.

Heard the Ld. Advocate for the plaintiffs at length.

Perused the petition, documents submitted by the plaintiffs and other materials available on record.

Considered.

On perusal of the petition, it appears that the plaintiffs have contended that plaintiffs became the owners of the suit property by way of purchase by virtue of registered deed of sale being No.7515 for the year 2009 and thereafter in the year 2015 they entered into one registered agreement with mobile tower installation company, namely, Reliance Jio Infocom Ltd. for installation of mobile tower of certain portion of the roof of the schedule mentioned property. They obtained the no objection certificate from the local municipality. It is further contended that subsequently the plaintiffs entered into another lease agreement in 2021 with another mobile tower company, namely, Indus Towers Ltd. for installation of another mobile tower of the remaining portion of the roof of the schedule property. The plaintiffs obtained NOC from the local municipality and the installation process is under progress. It is alleged that the defendants having no right, title and interest over the suit property since April 2022 are abusing the plaintiffs in filthy languages without any reason and also threatening and misbehaving with the maintenance and inspection staffs of the mobile tower's company thereby creating interference in the peaceful enjoyment of the schedule property illegally and for that the plaintiff requested the defendants not to do the same but no heed was paid to the plaintiffs' request. It further contended that the plaintiffs lodged a complaint before the local PS and filed NGR(S) No.333/2022 against the defendants u/Sec.107/116(3) Cr.P.C. It is further alleged that on 21.08.2022 the defendants along with their men and agents again trespass into the suit property and abused the plaintiffs and threatened them that they would not allow installation of mobile tower upon the suit property. Hence the instant petition.

Issue notice upon the defendants, asking them to show cause within 15 days from service thereof as to why the prayer for injunction shall not be allowed.

Perused the instant petition and documents submitted by the plaintiffs. It

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appears that the plaintiffs have submitted their original title deed along with municipal tax receipt, khajna dakhila and LR porcha. It is prima facie establishes the right, title and interest of the plaintiffs over the suit property. The plaintiffs have also filed the photocopies of the NOC issued by the local municipality with the installation of the two towers dt.14.10.2015 and 18.10.2021 respectively. The Ld. Advocate for the plaintiffs at the time of hearing of the petition stated that the original NOC is lying with mobile tower companies and therefore he had to submit the photocopies of the same. It appears that there lies a prima facie dispute with regard to installation of mobile tower upon the suit schedule property which is prima facie owned by the plaintiffs. The right, title and interest of the defendants over the suit property cannot be determined at this stage without taking evidence at this initial stage. It appears that there lies a prima facie case in favour of the plaintiffs and they are likely to suffer irreparable loss and injury if the defendants become successful preventing the installation of tower upon the suit property. It is reiterated herein that this Court is prima facie satisfied that the municipality has issued NOC with regard to installation of mobile tower upon the suit property. Therefore, taking into consideration the urgency of the matter and the existence of balance of convenience and inconvenience leaning in favour of the plaintiffs, if an order of ad interim injunction as prayed for is not passed in their favour only at this stage, then delay would defeat the purpose of justice for which an ad interim order of injunction calls for to be passed at this stage.

Hence it is,

**ORDERED**

that the defendants are hereby restrained from interfering in the peaceful occupation of the suit property by the plaintiffs and creating obstruction in the installation of the mobile tower till **23.09.2022**.

The plaintiffs are to comply with the provisions of Order 39 Rules 3 (a) and (b) of the CPC and to file requisites at once.

To date.

Update in CIS accordingly.

D/c by me.

**Civil Judge, (Junior Division),  
2<sup>nd</sup> Court, Serampore, Hooghly**

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