

T.S. - 264/26

Present: Smt Sonia Majumdar, Judge, Bench-II. (WB01128)

Order 03

06.02.26

The record is put up today as the Ld. Advocate for the plaintiff intends to move the application for ad-interim / temporary injunction for passing an ad-interim order restraining the defendants from entering into development agreement with the other developer in any manner and be further restrained from selling and/or transferring the premises demolishing the existing structure of the suit property and also not to sublet any person against any amount of money forceful means without due course of law.

It is reported from the office that no caveat is pending. Accordingly the application is taken up for hearing.

Heard the Ld. Advocate for the plaintiff at length.

In short, the case of the plaintiff is that the plaintiff is running a Proprietorship business as a contractor under the name and style of "M/s Maa Manasha Enterprise" for over 14 years having valid trade license. On the other hand, by way of inheritance as per Hindu Succession Act, 1956, the defendants are thika tenants/structure owners of their respective shares of a thika proja land measuring about 6 cottahs 9 chittaks 14 sq.ft. Old and dilapidated structure situated at Premises no. B/243/2C/H/10, Acharya Prafulla Chandra Road, P.S. Amherst Street, Kol – 06. The plaintiff further stated that for the purpose of construction of a multistoried building over the suit premises, defendant nos 2 to 5 along with late father of defendant no 1 nominated the plaintiff as their attorney holder by dint of General Power of Attorney dtd 5.7.24 and entered into an agreement for purpose of construction dtd 20.12.23. The plaintiff also stated that after demise of Tapan Kr Dey, defendant no 1, his legal heir i.e. the present defendant no 1 refused to execute the additional power of attorney in place of her father. The plaintiff spent Rs. 50,00,000/- at several times for the purpose of several occasions like incorporation of the names of defendants as thika tenants in the books and records of KMC and CKTT, plan etc. but the defendants without the consent of the plaintiff are illegally trying to enter into another development agreement with the other developer and knowing this plaintiff raised objection against such illegal acts of the defendants and his men and agents started to abuse the plaintiff with filthy languages and threatened with dire consequences etc. Finding no other option, the plaintiff was compelled to file the instant Title Suit for an order of injunction as per prayer in the injunction application.

It comes out that the plaintiff has filed copies of documents like photocopies of Power of Attorney dtd 05.07.24, photocopies of the agreement dtd 20.12.23, copy of KMC tax receipt, photocopies of LRTT application and its annexures, trade license etc.

Considering the facts and circumstances of the case and also considering the fact of the suit premises, I am of the considered opinion that the plaintiff has prima facie case and an order of ad interim injunction in the form of status quo may be allowed for a limited period which will suffice the purpose at this stage.

Hence, it is,

ORDERED

that the application under Order 39 Rule 1 and 2 read with Section 151 of the C.P.C. praying for ad interim order of injunction in the form of status quo is allowed.

Both the parties are directed to maintain status quo in respect of the nature and character of the suit property till 05.03. 2026.

Issue notice upon the defendants asking them to show cause within fifteen days from the date of receipt thereof as to why the prayer for temporary injunction shall not be granted.

Requisites at once.

The plaintiff is directed to comply with the provision of Order 39 rule 3 (a) & (b) of the C.P.C. at once.

Todate

D/C by me

Judge

Judge 2nd Bench