

T.S. no. 728 of 2020 (C.N.R. no. WBCC01-002403-2020)

Present: Bivas Pattanayak, Judge, Bench-II (WB-01050)

Order No. 8 dated 27.07.2021

The record is put-up on prayer of the plaintiff-petitioner for moving the application for ad interim- temporary injunction.

It is endorsed that no caveat has been filed.

Issue notice calling upon the defendant to show-cause within 15 days from the date of receipt of notice as to why the prayer for ad interim order of injunction shall not be allowed.

The brief fact of the case is that the defendants-opposite party nos. 1, 2 and 3 are the co-owners in respect of the premises no. 124, Raja Dwinendra Street, Kolkata 700 004, P.S. - Burtalla. The plaintiff-petitioner entered into an agreement for sale on 28.02.2018 in respect the aforesaid premises which was offered for sale by the defendants at a total consideration price of Rs. 81,00,000/-. Further, the plaintiff-petitioner paid a total sum of Rs. 10,00,000/- to the defendants – opposite parties in relation to the agreement for sale and accordingly, the plaintiff-petitioner is in possession of the schedule mentioned premises and it has been agreed that balance consideration price of Rs. 71,00,000/- shall be paid at the time of execution and registration of the of Deed of Sale by the defendants. However, defendant no. 1 is delaying the execution of the Sale Deed in respect of the schedule premises although, the plaintiff-petitioner approached the defendants on several occasions. It is further contended that the defendant no. 1 is trying to transfer the suit premises in favour of some strangers – third parties. Moreover, on 24.02.2020, the plaintiff-petitioner met with defendant no. 1 who is also the authorized person of defendant nos. 2 and 3 for execution of Deed of Sale but further time has been taken by the defendants to execute the Deed of Sale in violation in terms of the agreement. Further, the plaintiff-petitioner is ready to pay the balance consideration price for execution of the Sale Deed unto the defendants but the defendant no. 1 is misleading the other defendant nos. 2 and 3 and is trying to enter into an agreement for sale with some strangers-third parties. In view of the above, the plaintiff-petitioner prayed for an ad-interim injunction restraining the defendant nos. 1, 2 and 3 for entering into agreement for sale

with any other persons in respect of the suit premises and not to cause any disturbance to the peaceful possession in the execution of Sale Deed.

In support of the application, the petitioner – plaintiff has filed photocopies of following documents:

- i. Disclaimer of Title of Benamidars.
- ii. Indenture dated 15.09.1948.
- iii. Decree passed in Ejectment Suit no. 111 of 2014.
- iv. Agreement for Sale.

It appears that the plaintiff-petition has based its claim on the basis of agreement for sale dated 28.02.2018 and at paragraph 13 of the plaint it has stated that the plaintiff is entitled to get a decree of specific performance of contract. However, upon perusal of aforesaid agreement for sale, it is found that the same is not duly stamped. In view of the above, the prayer for ad-interim injunction stands refused.

To 24.09.2021 for S/R, A/D, appearance and show-cause.

Dictated & corrected by me:

Sd/-
Judge, Bench-II
27.07.2021

Sd/-
Judge, Bench-II
27.07.2021