

Title Suit No. 278 of 2025 (CNR WBCC01-2568-2025)

Present: Sri Subhash Kumar Kar, Judge, Bench-V (WB00592)

Order No.02/ Dated 20.02.2025

Record is put up today on the prayer of the plaintiffs.

Plaintiffs have filed one application under Order XXXIX Rules 1 & 2 read with section 151 of C.P.C.

From the office report, it appears that no caveat has been lodged till date.

An application under Order XXXIX Rules 1 & 2 read with section 151 of C.P.C. is moved today by the Ld. Advocate for the plaintiffs.

Having heard the Ld. Advocate and on consideration of the plaint, petition under Order XXXIX Rules 1 & 2 read with section 151 of C.P.C and documents annexed thereto it appears that one Kazi Abdul Karim was the original tenant in respect of the first floor of the old structure standing at premises no. 9, Nawab Abdur Rahman Street under P.S Park Street under defendant no. 1 and after his demise the plaintiffs inherited the said tenancy and an eviction suit was filed against them by defendant no. 1 before the Presidency Small Causes Court at Calcutta wherein a decree was passed and a proceeding for execution of the said decree was also initiated being Ejectment Execution case no. 136 of 2013 before the Ld. Judge, 5th Bench of the said court and during the pendency of the said execution case, the defendant no.1 has worked out an amicable settlement with the plaintiffs and accordingly the said execution proceeding was withdrawn by the defendant no. 1 which was recorded in order no. 60 dated 11.05.2018 passed in the said ejectment execution case and thereafter a tripartite agreement was executed in between the plaintiff in one part, defendant no. 1 being the owner as one part and the defendant nos.2 and 3 being the developer was the other part and it was agreed in between them that a G+5 building would be constructed on the said site by demolishing the old building and the plaintiffs would be accommodated in a flat having carpet area of 1000 sq.ft in the first floor of the newly constructed building and accordingly, the plaintiffs gave their no objection and vacated their old tenanted portion and after construction of the new building the plaintiffs were given possession of a flat in the first floor having carpet area of 1000 sq.ft as per the agreement and in the said agreement it was also agreed that the defendants would convert the said tenancy to a "ownership" on execution of a registered deed at the expenses of the plaintiffs and the plaintiffs are not required to pay any amount or any extra charges for such conversion and the defendant no. 1 issued a notice dated 29.01.2025 through his Ld. Advocate Azim Md. Sabir addressed to the plaintiffs asking them to quit, vacate and deliver the peaceful and vacant possession of

the said flat to the defendant no.1 within 15 days from the date of the receipt of the notice and it is prayed to pass an ad-interim order of temporary injunction in terms of the prayer.

On perusal of the documents, it appears to me that the plaintiffs are in possession of the suit flat and having regards to the prima facie case made out by them I am inclined to pass an ad-interim order of temporary injunction directing the parties to the suit to maintain status-quo as to the nature, character and possession of the suit property as on today till the next date fixed.

Issue notice upon the defendants directing them to show cause within 15 days, as to why an order of temporary injunction shall not be granted against them in terms of the prayer so made by the plaintiff.

Plaintiffs to comply the provisions of Order 39 Rule 3(a) & (b) of the C.P.C.

Fix 19.03.2025 for S/R, A/D and appearance.

Requisites be issued at once.

D/c by me,

Judge, Bench-V
City Civil Court, Calcutta

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