

Title suit 472 of 2019 (CNR no. WBCC-1853/19)

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

Order no. 19 dated 05.03.2021

Today is the date fixed for hearing petition dated 29.06.2020 filed by the plaintiff for direction upon local police authority to take all possible steps for restoring normalcy of the suit premises.

Plaintiff and defendant nos. 2 and 3 file *haziras* through their respective learned Advocates.

Learned Advocate of the respective parties are present before the court.

The record is taken up for hearing and passing order.

It is contended in the application that the learned Court vide order dated 18.09.2019 was pleased to pass an order in the form of *status-quo* to be maintained by both the parties. During the pendency of the suit, the defendant along with another co-sharer namely Anirudha Chakraborty are trying to trespass into the common area and removed the articles namely bicycles, utensils, chairs from the kitchen of the plaintiff and also trying to erect illegal construction with the help of mason in the common area. In relation to the same, the plaintiff/-petitioner lodged General Diary before the local police station being G.D. no. 2194 dated 27.03.2020. On the basis of above facts, the plaintiff-petitioner has prayed for an order directing local police authority to take all possible steps for restoring normalcy of the suit premises.

The aforesaid application has been keenly contested by defendant no. 1 by filing written objection with the contention that the defendant no. 1 never did any wrongful, illegal act in respect of the suit property and the plaintiff have cleverly suppressed the material fact that the police after receiving complaint visited the premises and did not find any illegal activities on the part of defendant no. 1. It is contended that for protection during pandemic Covid-19 the Ward Councilor and health workers instructed for cleanliness and asked the members of the house to clean the unused articles as soon as possible for health safety measures and the same was removed by Anirudha Chakraborty with the help of health workers. Further, since 23.03.2020 there was complete lock-down announced by the State Government and so the alleged illegal activities of defendant no. 1 is nothing but imaginary and illusory one. In the above premises, the defendant no. 1 prayed that the application be rejected.

Defendant nos. 2 and 3 did not file any written objection.

Learned Advocate for the plaintiff submits that this court by its order no. 9 dated 18.09.2019 directed plaintiff and defendant no. 1 to maintain status-quo in respect of the suit property with regard to the nature, character and possession on and from the date of ad-interim order till disposal of the suit. However, the defendant no. 1 intentionally and purposefully violated the *status-quo* order by removing articles of the plaintiff and also trying to erect illegal construction with the help of mason, the fact of which was reported to the local Police Station. He further submits that the defendant no. 1 has made bird cage within the suit premises after passing of the order of *status-quo*. Furthermore, the prayer so made by the plaintiff for police help will not cause any prejudice to defendant no. 1 rather the suit premises will be protected in the future times. In the light of his above submissions, he prays that the prayer of the plaintiff for direction upon the local Police Station to take all necessary steps for restoring normalcy in the suit property. Plaintiff files photographs in support of his claim.

In reply to the aforesaid contention raised on behalf of the plaintiff, learned Advocate appearing on behalf of defendant no. 1 submitted that the entire fact as brought by the plaintiff is false and concocted inasmuch as during the alleged period, there was complete lock-down declared by the State Government and therefore the possibility of illegal activities by the defendant no. 1 is far-fetched. He further draws the attention of the court that no commission, or inspection has been sought for by the plaintiff to primarily suffice of such alleged illegal activities of defendant no. 1. In the above premises, he prays that the prayer of the plaintiff should be rejected in *limini*.

Learned Advocate appearing on behalf of defendant nos. 2 and 3 submits that although prayer has been made against the defendants but as per the submission of the plaintiff, the relief under the application has been sought for against defendant no. 1 only and she leaves the matter to the discretion of the court.

At the very outset, I am in consonance with the submission made by learned Advocate for the defendant nos. 2 and 3 that the plaintiff has prayed for relief against the defendants, however, it is placed on record that at the time of making submissions, learned Advocate for the plaintiff has categorically stated that the relief has been sought for under the application against defendant no.

1 only.

It appears from the case record that this court vide order no. 9 dated 18.09.2019 directed the plaintiff and defendant no. 1 to maintain *status-quo* in respect of the suit property with regard to nature, character and possession on and from the date of ad-interim order till disposal of the suit. The plaintiff by the application under consideration has asserted that defendant no. 1 is trying to trespass into the common area and they have removed articles from the kitchen of the plaintiff and/or also trying to erect some illegal construction with the help of mason and in relation to the same, the plaintiff has also lodged a General Diary before the local Police Station. Be that as it may, the plaintiff did not seek for any local inspection commission in respect of the suit property to primarily show that there has been some changes made at the instance of defendant no. 1 thereby violating the order of *status-quo* passed by the court on 18.09.2019. Considering the above, this court finds that the application of the plaintiff falls short of merit and is liable to be rejected.

Hence, it is

O r d e r e d

that the application dated 29.06.2020 filed by then plaintiff be and the same is rejected on contest.

The aforesaid application is thus disposed of.

To 04.05.2021 for framing of issues.

Dictated & Corrected by me

Sd/-
Judge, Bench-II
05.03.2021

Sd/-
Judge, Bench-II
05.03.2021