

M.S. - 560/23 CNR – WBCC0106949-2023

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

Order 15

13.06.25

Today is fixed for ex-parte hearing petition u/o 39 Rule 1 and 2 of the CPC.

Plaintiff files hazira.

Ld. Advocate for the plaintiff submits that he entered into an agreement for sale dtd 17.12.15 with the defendants for allotment of a shop room as described in the schedule A to the injunction application by way of lease at a consideration price of Rs. 4,60,000/- on different dates. As per the condition and obligations of the agreement for sale, the defendants were required to allot and deliver the possession thereof in favour of the plaintiff within a period of 8 months from the date of execution of the said agreement, but till date the defendants have not delivered the possession of the said suit room in favour of the plaintiffs despite repeated requests made by the plaintiff. It is the further case of the plaintiff that when he approached the defendants for refunding the said sum of Rs. 4,60,000/- , the defendants issued a cheque for the said amount, but it was dishonoured. Thus the defendants neither delivered possession of the suit room nor return the money in favour of the plaintiff in any manner. So the plaintiff approached this court by filing this suit for temporary injunction restraining the defendants from selling/disposing/alienating /transferring or creating any third party interest in respect of the suit shop room. The plaintiff has filed several documents in support of his case.

Perused the petition , documents as well as the record. Considered.

On consideration of the same I find that the agreement for sale between the plaintiff and the defendant is an unregistered document which was executed on 17.12.2015 and though some payment was made within 2016 but he lodged written complaint against the defendant in 2023. Moreover it appears from record that the plaintiff has not sought for any relief in the form of Specific Performance of Contract under Specific Relief Act but simply filed the Money Suit against the defendant without seeking any relief in respect of the suit shop room. Therefore, I am not inclined to allow the prayer of the plaintiff by passing order of temporary injunction by restraining the defendants from selling/ disposing/alienating /transferring or creating any third party interest in respect of the suit shop room.

Hence it is

ORDERED

that the petition filed by the plaintiff for ex-parte hearing petition u/o 39 Rule 1 and 2 of the CPC for passing order of temporary injunction by restraining the defendants from selling/ disposing/alienating /transferring or creating any third party interest in respect of the suit shop room is refused.

To 07.08.25 for ex-parte hearing of the suit.

D/C by me

Judge

Judge 2nd Bench