

T.S. - 1149/23 CNR – WBCC0106003-2023

Present: Sri Jayanta Koley, Judge, Bench-II. (WB00562)

Order 13

17.12.24

Today is fixed for exparte hearing of the application of the plaintiff dtd 30.9.24 u/o 40 Rule 1 read with section 151 CPC.

Plaintiff files hazira. Heard the Ld. Advocate for the plaintiff.

Perused the application, whereby the plaintiff has prayed for passing necessary order to appoint himself as the receiver in respect of the suit shoprooms for the purpose of taking temporary possession thereof upon breaking open the padlock on the grounds that as the suit shoprooms have been kept under lock and key by the defendant for over 5 years, the property has been damaged to a great extent in the context of falling down of a beam from the adjacent ceiling of the suit shoprooms which requires immediate repair work to save the property as a whole.

It appears that the suit is all along proceeding exparte against the defendant.

The instant suit is one for declaration, injunction and other consequential reliefs on the plea that the entire premises including the tenanted suit shoprooms of the defendant being more than 100 years old has become dilapidated and a portion of the beam in the outer wall of the suit shoprooms has falled down for which reasonable apprehension has arisen in the mind of the plaintiff that the inside portion of the suit shoprooms has suffered damage but the defendant has not taken any step to undertake repair works but kept the suit shoprooms under lock and key. As no useful purpose will be served in issuing any direction upon the defendant for the above as he has not entered appearance in this suit so the plaintiff has filed applications for mandatory injunction and local inspection commission so that he himself can undertake necessary repair works by entering into the suit shoprooms.

Having regard to the factual scenario and for the purpose of effective and fair disposal of the pending applications along with the instant suit as well as to save and protect the entire property including the suit shoprooms, I am of the considered opinion that unless somebody is shouldered with the responsibility of taking possession of the suit shoprooms for a temporary period till the proposed repair works are completed, subject to arriving at the finding that such repair work is really necessary, the pending applications as well as the instant suit may not be disposed of at all.

Considered as above, I am inclined to allow the instant application and more so upon considering the status of the plaintiff with respect of the entire premises including the suit shoprooms as the owner / landlord thereof.

Hence it is

Ordered

that the application of the plaintiff u/o 40 Rule 1 read with section 151 CPC dtd 30.9.24 is hereby allowed.

The plaintiff is accordingly appointed as a Receiver without any remuneration in respect of the suit shoprooms for a temporary period till the proposed repair works inside the suit shoprooms is complete subject to the condition that such repair work is really found to be

necessary while disposing of the pending applications of the plaintiff. The plaintiff is permitted to have the padlocks put on the entrance of the suit shoprooms broken and replaced by new padlocks keeping the keys in his possession after conducting inventory in respect of the articles, if any, lying in the suit shoprooms in presence of a special officer who shall submit his report in that respect along with list of inventory by 20.3.25.

Let Ld. Advocate Chitto Binod Biswas (9836519569) be appointed as the Special Officer for the above purpose. Plaintiff is directed to make payment of a sum of Rs. 6000/- in favour of the Special officer on account of his remuneration and other incidental expenses atonce. Writ will be issued after payment of such fees.

It is hereby made clear that after disposal of the pending applications of the plaintiff, the keys of the suit shoprooms be returned to this court for future preservation till the suit is finally disposed of.

D/C by me

Judge

Judge 2nd Bench