

Order 03

30.04.25

The record is put up today as the Ld. Advocate for the plaintiffs intends to move the application for ad-interim / temporary injunction for passing an ad-interim order upon the same.

It is reported from the office that no caveat is pending. Accordingly the application is taken up for hearing.

Heard the Ld. Advocate for the plaintiffs at length.

In short, the case of the plaintiffs is that the property is a debattor property and by way of Deed of settlement the property has been amicably shared by the predecessors of the plaintiffs and the defendants. Ld. Advocate for the plaintiffs has further submitted before this court that in view of the settlement they became owners as trustees in respect of 4B, Kashi Ghosh Lane, Kolkata – 06 and defendant no 3 and 4 have their share in respect of 4A Kashi Ghosh Lane, Kol - 06 and the buildings in respect of the two properties is divided by a common wall. It is the further case of the plaintiffs that defendant no 3 and 4 sold out their share to defendant no 1 and 2 which is illegal in view of the settlement deed. It is their further case that now defendant no 1 and 2 are planning to reconstructing the portion / existing structure and raise a new floor which will create immense damage to plaintiffs premises no 4B, Kashi Ghosh Lane as both the premises share common wall between themselves and there will be obstruction of light, air etc as enjoyed by the plaintiffs. So he prayed for an adinterim order of injunction by filing the instant Title Suit and prayed for relief as per prayer of the injunction application.

Heard Ld. advocate. Perused the application, annexures and the materials on record. In considering the entire aspect it appears to me that the property is a debattor property and the parties to the suit are sebaits in view of the trust deed. The plaintiffs have clearly admitted that the defendants are only planning for reconstruction and addition, alteration of their portion and not any portion of the plaintiffs. As a result I do not find any urgency by directing restrained order against the defendants without giving an opportunity of hearing. Thus, the prayer for adinterim injunction is refused at this stage.

Issue notice upon the defendants / OPs to showcause within 15 days from the date of receipt of this notice as to why the temporary injunction as prayed for by the plaintiffs shall not be passed.

To date.

S/D
Sonia Majumdar

Judge

S/D
Sonia Majumdar

Judge 2nd Bench

