

T.S. - 2420/22 CNR – WBCC010012804-2024

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

Order 22

25.11.24

Today is fixed for hearing of the injunction application dtd 19.11.22 together with hearing of application u/o 39 Rule 7 read with section 151 CPC dtd 12.8.24.

Both the sides file haziras. Plaintiff files a petition praying for extending the force of adinterim order of temporary injunction.

Heard the Ld. Advocates for both the sides.

Perused the application, whereby the plaintiff has prayed for passing necessary order to appoint an Advocate Commissioner for inspection of the suit locker and to conduct the commission work as per points mentioned in the schedule to the said application mainly intending to bring a clear picture before this court regarding the particulars of articles/valuables, if any, lying in the said suit locker.

The defendant no 1 has resisted and contested the said application by filing a WO denying all the material allegations contained therein and has prayed for rejection of the same

mainly on the ground that by the said application the plaintiff is actually intending to fish out evidence in the matter of ascertaining the particulars of the articles / valuables, if any, lying in the suit locker which clearly goes to establish that she herself is not sure regarding existence or otherwise of any article/valuable at all lying in the suit locker.

It appears from the record that the instant suit has been filed by the plaintiff for declaration, permanent injunction with other consequential reliefs in respect of the articles/valuables lying in the suit locker claiming the same to be her stridhan property with the allegation that though the suit locker with the defendant no 2 bank is standing in the joint names of herself and the defendant no 1 and all her stridhan articles are lying therein, yet the defendant no 1 is constantly declaring that he would take away all those stridhan articles in order to deprive her therefrom.

Though it may appear for a moment that the plaintiff has not at all been able to furnish any detailed particulars of her stridhan articles allegedly lying in the suit locker along with the plaint, which fact may in a round way about raise suspicion in the mind of a person of ordinary prudence regarding the veracity of her such statement, but at the same time it should not be lost sight of the fact that the plaintiff, before filing of the said application, furnished a list of stridhan articles allegedly lying in the suit locker by furnishing an affidavit to that effect on 3.6.24 while the defendant no 1 has never raised any plea that the suit locker is lying empty.

In such circumstances, though it appears to be a fact that neither of the parties has given any clear picture regarding the articles / valuables lying inside the suit locker but the details of such articles/valuables are required to be ascertained in order to avoid taking place of possible confusion or complication before commencement of trial of this suit.

Considered as above, I am inclined to allow the said application and more so when the same does not appear to cause any injury or prejudice to the defendants.

Hence it is

Ordered

that the application of the plaintiff u/o 39 Rule 7 read with section 151 CPC dtd 12.8.24 is hereby allowed on contest.

Let Sri Chitta Binod Biswas (9836519569) be appointed as the Advocate Commissioner for holding local inspection commission work in respect of the suit locker in terms of the points as mentioned in schedule to the instant application. The Ld. Advocate Commissioner is directed to visit the suit locker after giving notice to all the parties well in advance and conduct the commission work in their presence and thereafter submit report in that respect by 19.2.25.

Plaintiff is directed to make payment of a sum of Rs. 6000/- in favour of the Ld. Advocate Commissioner on account of fees and other incidental expenses. Writ will be issued after payment of such fees.

The force of adinterim order of temporary injunction is extended till that date.

D/C by me

Judge

Judge 2nd Bench