

**Title Suit 2587 of 2023**

**Present: Sri Subhash Kumar Kar, Judge, Bench-V (WB00592)**

**Order No. 43// Dated 14.08.2025**

Parties have taken their respective steps.

Date is fixed for hearing of the petition under Order XXXIX Rules 1 and 2 of C.P.C.

Heard both sides on the petition.

Seen the record.

Plaintiffs have filed this suit for declaration and permanent injunction and they also filed an application under Order XXXIX Rules 1 and 2 of C.P.C. with a prayer for issuing temporary injunction restraining the defendant from subletting or creating third party interest on the suit property on the premises that admittedly defendant is a tenant in respect of the suit property which has been created for commercial purpose and he is not paying rent since January, 2021 and he also failed to pay proportionate share of municipal taxes and it has come to the notice of the plaintiffs that defendant is trying to sublet the suit property to the strangers and it is prayed to issue a temporary injunction so that the defendant can be restrained from creating any third party interest over the suit property.

Defendant has filed written objection against the said petition wherein he denied and disputed all the allegations made in the petition and inter-alia stated that plaintiffs have become the owner of the property by sale in terms of registered deed dated 11.09.2019 and he is not a tenant under the plaintiffs in respect of the suit property and he paid the rent till December, 2020 and he also tendered rent for the month of January, 2021 to December, 2023 which was refused by the plaintiffs and thereafter he started depositing rent with the Rent

Controller and it is denied that he is trying to create any third party interest over the suit property and it is prayed to reject the petition.

Having regards to the contentions raised by both sides, it appears to me that admittedly defendant is in possession of the suit property and he paid rent to the landlord lastly in the month of December, 2020 and thereafter he is depositing rent with the office of the Rent Controller and admittedly there is a dispute in between the plaintiffs and the defendant over the tenancy and under such circumstances unless a temporary injunction is issued, there is chance of causing irreparable loss and injury to the plaintiffs.

It appears from the record that an ad-interim order of injunction directing the parties to maintain status-quo as to the nature, character and possession of the suit property was issued on 21.12.2023 and since the defendant is in possession of the suit property, neither party will be prejudice if the said order is made absolute.

Hence, it is

**ORDERED**

that the instant petition under Order XXXIX Rules 1 and 2 of C.P.C. is allowed on contest but without any cost and ad-interim order of temporary injunction dated 21.12.2023 is made absolute till the disposal of the suit.

It appears from the record that defendant has filed written statement within the statutory period.

Fix 12.11.2025 for framing of issues.

D/c by me,

Judge.

Judge, Bench-V,  
City Civil Court, Calcutta.