

Title Suit No. 2602 of 2023 (CNR WBCC01-012945-2023)

Present : Sri S. Dasgupta (J.O. Code: WB01246)

Order No. : 02

Dated : 21.12.2023

The petitioner/plaintiff has filed one application under Order 39 Rule 1 & 2 of C.P.C.

From the office report it appears that no caveat has been filed till this date.

The ad-interim injunction application is moved today by the Ld. Advocate for the petitioner/plaintiff.

Perused the injunction application, its enclosures and the case record.

Considered.

It appears from the petition praying for ad-interim injunction that the petitioner/plaintiff is the absolute owner of Room No.22, 8, Amartalla Street, P.O. + P.S. - Burrabazar, Kolkata – 700001 and the respondent Nos.1 and 2 are residents of Ganges Garden, 106, K.C. Singha Road, Block 'B1', Flat No.2F, P.O. + P.S. - Shibpur, Howrah – 711102, Respondent No.3 is a company, having its registered office at 8, Ho Chi Minh Sarani, Suite No.26, Second floor, P.O. - Middleton Street, P.S. - Shakespeare Sarani, Kolkata – 700071 and the respondent No.4 is one of the Directors of the respondent No.3. The respondent No.3 was the erstwhile owner of all the rooms in the suit premises.

It is further stated that the petitioner had purchased the said room from the respondent No.3 vide deed dated 29.09.2023, which is registered in the Office of the Additional Registrar of Assurance – III, Kolkata in Book No.I, Vol. No.1903-2023, at pages 266740 to 266765, being No.190306979 of the year 2023. In terms of the said deed, the petitioner had been granted the absolute right, title and interest in the said room along with a proportionate, impartible and indivisible share in the common areas and amenities of the said premises described in the third schedule of the said deed.

It is also stated that the petitioner has come to learn that by way of a deed of sale dated 18.10.2023, the respondent No.3 has conveyed to the respondent Nos.1 and 2, the absolute right, title and interest in a part of the common area on the first floor of the said premises. It is stated by the petitioner that the said deed falsely states that the said part of the common area is numbered as Room No.116A of the said premises as no such room bearing such a number has ever existed in the said premises.

It is further stated that the respondent Nos.1 and 2 in or about the period between October 20 and 25, 2023 had sent their men and servants to forcefully take possession of the said part of the common area for the purposes of constructing walls thereat to convert it into a distinct unit/room altogether. It is stated that the petitioner protested against this and asked the respondent Nos.1 and 2, over telephone to remove their men from the said common area. The said respondents, in response, stated that they had acquired the ownership rights to the said part of the common area by way of the said deed. The said respondents are currently attempting to take possession of the said part of the common area and are also making constructions thereat.

Having heard the Ld. Advocate for the plaintiff/petitioner and taking into account the entire facts and circumstances of the instant case, this Court has come to the conclusion that an ad-interim injunction in the form of **status quo** should be passed right now, otherwise the very purpose of granting injunction would be defeated by delay and the plaintiff/petitioner will suffer from irreparable loss and injury. The plaintiff/petitioner has been able to make out a prima facie

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case in order to get ad-interim order of injunction as prayed for. Balance of convenience and inconveniences are in favour of the plaintiff/petitioner. That apart, I find urgency in the matter.

Hence, it is

**ORDERED**

that the petitioner's prayer for ad-interim injunction is considered and allowed, directing both the parties i.e. the petitioner and the respondents/defendants to maintain **status quo** in respect of the suit property specifically regarding any construction and thereafter, taking possession of Room No.116A, as mentioned in the deed dated 18.10.2023 till **18.01.2024**.

Issue notice upon the respondents/defendants, directing them to showcause within 15 days, as to why an order of temporary injunction shall not be granted against them in terms of the prayer so made by the petitioner/plaintiff.

Petitioner/plaintiff to comply with the provision as laid down in Order 39 Rule 3(a) & 3(b) of C.P.C. at once.

To **18.01.2024** for S/R, A/D and appearance.

Requisites be filed at once.

D/c by me,

Sd/-

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

Sd/-

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