

Present: Smt Sonia Majumdar, Judge, Bench-II. (WB01128)

Order 02

10.09.25

The record is put up today as the Ld. Advocate for the plaintiff intends to move the application for ad-interim / temporary injunction for passing an ad-interim order restraining the defendants and their men and agents from dispossessing the plaintiff in respect of the peaceful enjoyment of the suit premises.

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 plaintiff at length.

In short, the case of the plaintiff is that the plaintiff is the bonafide tenant under defendant no 2 in respect of premises no 09, Raja Kissen Street, P.S. Burtolla, Kol – 06 for the purpose of godowns and storage facilities and as labour and staff quarters of the plaintiff, who run an oil mill opposite to the said premises at 32/4 Sahitya Parishad Street, Kol - 06 at a monthly rent of Rs. 3000/-. The owner of the property is Late Rameshwar Khandelia Trust. The plaintiff was inducted as a tenant in respect of the said property sometime around 1950. Since then the predecessors of the plaintiff and the plaintiff had been in occupation of the property and were regularly paying the monthly rent in respect of the said property without any objection. The predecessor of the defendant nos 3 and 4, Shankar Lal Kamalia being the sole trustee had regularly accepted rent from the plaintiff and issued rent but from April 2015 the predecessors of defendant nos 3 and 4 stopped accepting rent from the plaintiff and the plaintiff had been depositing rent at the office of the Ld. Rent Controller, Kolkata. The property is more than 75 years old and is dilapidated condition. The defendant nos 1, 3, 4 and the plaintiff entered into a registered development agreement whereby the owners share would be 23%, the developer be 70% and the plaintiff would be 7% and the developer was required to demolish the existing structure. Meanwhile the godown of the plaintiff had been collapsed due to rain and the plaintiff came to know that defendant no 3 had taken steps to engage another developer and the plaintiff is afraid that the defendants would take steps to forcibly dispossess the possession of the plaintiff. So the plaintiff has filed the instant Title Suit for an order of injunction as per prayer (b) of the injunction application. Ld. Advocate for the plaintiff has submitted that at present he is not pressing prayer (a) of the injunction application.

Heard Ld. advocate. Perused the application, annexures and the materials on record. In considering of the same it appears that the plaintiff has clearly admitted that the defendants are only planning for construction of the entire suit building and he is afraid that he will be dispossessed forcefully by the defendant no 2. Therefore, there is no incident happened to forcefully dispossess him yet and naturally no written complaint has been lodged. Moreover it comes out from the documents filed by the plaintiff that the last rent control challan submitted by him before the court is dtd 14.02.2019 for the month of January 2019 i.e. about 6 ½ years ago. Therefore, he cannot submit any recent rent control challan thereafter to show that he is continuously paying rent till date. As a result I am not inclined to grant any order of adinterim injunction in favour of the plaintiff. Thus, the prayer for adinterim injunction is refused at this stage.

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

To date.

D/C by me

Judge

Judge 2<sup>nd</sup> Bench