

Title Suit 9/21

Order No. 02 dated 24.12.21

Report received and kept with the record.

Now the case is taken up for hearing of petition filed by the plaintiff under order 39 Rule 1 and 2 of CPC r/w section 151 praying for issuance of ad-interim rule against the defendants.

Heard Ld. Lawyer for the plaintiff with respect to the petition under order 39 Rule 1 and 2 of CPC r/w section 151 regarding the ad-interim injunction as prayed for in the petition.

As per the report of Seristadar there is no caveat in this regard and the case is duly registered on admission after Office Report to that effect. Perused the instant petition supported by affidavit and documents filed by the plaintiff.

Learned Counsel for the plaintiff submitted and it appears from the application for ad-interim injunction that the plaintiff approached the defendant No.2 to let out the suit property to the plaintiff at monthly rent to run a hotel business. The defendant No. 2 orally handed over the suit property to the plaintiff in October, 2020 as a tenant with certain terms and condition. The plaintiff would pay the security deposit sum of Rs. 50,000/- (Rupees Fifty Thousand) to the defendant No. 2 while taking over the possession of the suit premises as described in schedule. The plaintiff paid Rs. 50,000/- (Rupees Fifty Thousand) to the defendant No. 2 and defendant No. 3 in the month of September, 2021. it was also agreed that the plaintiff would pay the agreed monthly rent of Rs 8000/- (Rupees Eight Thousand) regularly from the month of October, 2020 to the defendant No. 2 in respect of the schedule property. The plaintiff made the online payment of monthly rent of Rs 8000/- regularly to the defendant No. 2 without default till the month of September, 2021. The plaintiff have been running his business since October, 2020. But on 06.10.21 the defendant No. 1 claiming herself to be owner of the suit property along with some of her accomplices enter in the suit property. She warned the plaintiff to leave and vacate the suit property. Plaintiff brought it to the notice of Kurseong Police on 07.11.2021. The plaintiff sent the notice dated 09.11.21 to the defendants through his Ld. Advocate. The said notice was duly delivered to the defendants but the defendants are still indulging their activities with the intention to evict the plaintiff from the suit property. It is stated that the defendant No. 1 in collusion with defendants No. 2 and 3 have been threatening the plaintiff to leave and vacate the suit property.

Finding no other alternatives the plaintiff filed the suit along with injunction application.

In order to prove his case, the plaintiff has filed 1) Two money transfer receipt of SBI, 2) Bank statement dated 19.02.21, 3) postal receipt notice dated 09.11.21, 4) Statement of account of Mrs Nilam Prasad W/O Jai Prakash Prasad i.e the plaintiff dated 30.09.21, 5) Aadhar card of Nilam Prasad

Considering the facts and circumstances and the document submitted by the plaintiff this Court finds that the plaintiff has got a prima facie case and the object of the injunction could be frustrated if the ad-interim petition filed by the plaintiff is not allowed at this stage and by doing so neither parties will be prejudiced.

Under such circumstances this Court is inclined to allow the petition filed by the plaintiff under order 39 Rule 1 and 2 of CPC r/w section 151.

Hence it is,

ORDERED

that the defendants and his men and agents are hereby restrained from disturbing the peaceful possession and business of the plaintiff and also evicting the plaintiff out of the suit schedule property as mentioned in the injunction application except in accordance with law till 01.02.2022.

Notice be send upon the defendants as to show cause within the seven days from the receipt of the order as to why the petition for the injunction filed by the plaintiff should not be allowed. The plaintiff is directed to comply the order 39 Rule 3A and 3B of CPC at once.

To 01.02.2022 for S/R and further orders.

Dictt. & Correct.by me:

Sd/-
Civil Judge(Jr.Divn)
Kurseong.

Sd/-
Civil Judge(Jr.Divn)
Kurseong.

