

Misc. Appeal – 60/24

CIS – 60/2024

Present : Mr. Nayyar Azam Khan

Additional District Judge, 2nd Court,
Serampore, Hooghly,

J.O Code No.WB01302.

Order No. 04 dated 23.9.24

Today is fixed for passing order.

Petitioner has filed hazira on this day.

The record is now taken up for passing order upon the hearing concluded on the last date with respect to the petition filed by the petitioner/appellant under Order 39 Rule 1 and 2 read with sec. 151 of the CPC.

Ld. Advocate for the appellant moved the said ad interim injunction petition and submitted therein that the petitioner being the plaintiff in the ld trial court had filed a Title Suit being T.S. No. 331/2019 praying for an order of specific performance of contract against the defendant/respondent as the defendant had not executed the deed of sale of the suit property and registered it in the name of the plaintiff although the defendant had made an agreement for sale with the plaintiff with respect to the same and had also received the full consideration money of Rs. 114000/- from the plaintiff for the intended sale. He also submitted that although the plaintiff was having possession over the suit property, the defendant had tried to forcefully take possession of the same on 13.7.19 by ousting him and had threatened him due to which the plaintiff had lodged a General Diary with the local P.S. and had also given mass petition to the Pradhan of the concerning Panchayat within which the suit property was located. Ld Advocate submitted that the respondent was desperately trying to evict him from the suit property and threatening him to do so against which an order of temporary injunction was required against the respondent for restraining the respondent to forcefully evict the appellant from the suit property and for changing its nature and character and for creating third party interest upon the same.

Heard.

Perused the injunction petition and materials in the record. Considered.

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It appears from the notarized agreement filed in the instant record that the agreement for sale was purportedly made between the appellant and the respondent in 2007 and the appellant had filed a suit for specific performance of contract for which the limitation period is three years which has ended long back. Plaintiff has not filed any document to show that he is present in possession of the suit property. Neither has he filed the copy of G.D. of the P.S. and copy of mass petition received the Panchayat against the illegal activity of the respondent of trying to forcefully evict him from the suit property as alleged by him. As such, the appellant has failed to make out a prima facie case for grant of interim injunction in favour of him as there appears to be no balance of convenience and inconvenience in favour of him and no irreparable injury would be suffered by him if the said injunction is not granted to him.

Hence the petition for ad-interim injunction filed by the appellant in the present matter is considered and dismissed and thus disposed of.

Issue filed requisites at once. Call for LCR.

To 07.11.2024 for S.R. and receipt of LCR.

Dict. & corr. By me.

Addl. District Judge, 2nd Court,
Serampore, Hooghly.

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Serampore, Hooghly.

