

Misc. Case No. 287/2024
CNR No.WBHW01-00 5562-2024

Present: Sonia Majumdar
District Judge, Howrah.
J.O. Code – WB01128

Order No. 03 dated 12.12.2024

The record is put up today in view of the order dated 09.12.2024.

Petitioners file hazira.

On the prayer of the learned Advocate for the petitioners, the application for injunction is taken up for hearing.

From the office report it appears that there is no caveat till date.

The application with a prayer for an order of injunction on interim measure restraining the opposite parties from making any obstruction to the petitioners from going through the Books of Accounts and other papers of the Partnership Business runs under the name and style of 'Vivekananda Oil Mill' and/or from disturbing their lawful possession at the place of business as fully described in the schedule of the application and/or from selling goods in the bills and invoices in the name of the proprietorship business of opposite party no. 1 i.e. 'Shree Durga Oil Industries' or any other name other than M/S. Vivekananda Oil Mill and/or from illegally siphoning money of Vivekananda Oil Mill in any manner and other reliefs, is taken up for hearing.

This is an application under Section 9 of the Arbitration & Conciliation Act, 1996, filed by the petitioners supported by an affidavit.

It is the submission of learned Advocate for the petitioners that petitioners and opposite parties are the partners of the unregistered partnership firm and a Reconstituted Deed of Partnership was executed on 17.08.2022 which is now in force. It is further submitted that previously on 09.06.1988 a Deed of Partnership was executed in between Dharampal Premrajka, now deceased, the petitioner no. 2 and opposite party no. 1 as partners and they started a business of oil mill under the name and style of Vivekananda Oil Mill and after the demise of said Dharampal Premrajka, his son Rajendra Premrajka was admitted as a partner in the said business through the said Reconstituted deed of Partnership. In the said partnership business, both parties have invested a huge amount in proportionate share as per said partnership business. Learned Advocate for the petitioners has further submitted that petitioner no. 1 and on behalf of petitioner no. 2, her husband used to look after the said business and taking advantage of cancer of the husband of petitioner no. 2, opposite parties started disturbing petitioners and stopped sharing any information to them and

subsequently after the death of the husband of petitioner no. 2, opposite parties are siphoning off the earnings of the said oil mill. It is further submitted that shares of petitioners are curtailed in the said Reconstituted Deed of Partnership and a signboard under the name and style of 'Shree Durga Oil Industries' was affixed in front of the business place of 'Vivekananda Oil Mill' removing the signboard of Vivekananda Oil Mill. It is the further case of the petitioners that opposite parties do not show any stock of the said business and are selling the products of Vivekananda Oil Mill by using the invoices in the name of Shree Durga Oil Industries and opposite parties have made a false tenancy agreement between Vivekananda Oil Mill and Shree Durga Oil Industries illegally, fraudulently and arbitrarily. It is also submitted that there is a clause in the Reconstituted Partnership Deed that according to Annexure A in page no. 07 point no. 19 of the said deed that all disputes or differences arise between the parties, then the matter would be referred to an Arbitrator. It is the further submission of learned Advocate for the petitioners that petitioners already sent a notice dated 03.12.2023 requesting the opposite parties to refer the matter before the said Arbitrator. Petitioners lodged two G.D. Entry. At this stage, learned Advocate for the petitioners made submission that unless the opposite parties are restrained from going through the books of Accounts and other papers of the Partnership Business runs under the name and style of 'Vivekananda Oil Mill' and/or from disturbing their entry at the place of business as fully described in the schedule of the application and/or from selling goods in the bills and invoices of Shree Durga Oil Industries, petitioners will suffer irreparable loss and injury.

Thus, the petitioners have filed the instant petition under Section 9 of the Arbitration & Conciliation Act, 1996 with a prayer for injunction.

Perused the case record being Misc. Case filed under Section 9 of the Arbitration & Conciliation Act, 1996 and the documents filed by the learned Advocate for the petitioners.

Petitioners have filed photocopies of documents showing the originals like Reconstituted Deed of Partnership, photocopy of Deed of Partnership dated 09.06.1988, letters dated 8.11.24 and 05.11.24, G.D. Entry, tax challan, letter dated 03.12.24 sent to opposite parties etc. at the time of hearing. Ld. Advocate for the petitioner pointed out and drawn attention of the Court to the photocopies of the documents filed with the original petition in support of his contention for passing an order of interim injunction under Section 9 of the Arbitration & Conciliation Act, 1996.

It comes out from the photocopy of the Reconstituted Partnership Deed that according to Annexure A in page no. 07 point no. 19, if any dispute or differences arise between the parties, then the matter would be referred to an Arbitrator. Thus, petitioners have been able to make out prima facie case.

Heard learned Advocate for the petitioners. I have perused the injunction application and photocopies of the documents and other materials on record.

Considered.

On consideration of the same, I find that the petitioners have filed photocopies of the documents showing the originals in support of their case from which it comes out that they have a prima facie case.

Considering the facts and circumstances of the case and also considering the urgency of the matter, I am of the considered opinion that an order of ad interim injunction may be allowed for a limited period on condition.

Hence, it is

Ordered

that the opposite parties in this case are hereby restrained by an order of ad-interim injunction from making any obstruction to the petitioners from going through the Books of Accounts and other papers of the Partnership Business runs under the name and style of 'Vivekananda Oil Mill' and/or from disturbing their lawful possession at the place of business as fully described in the schedule of the application and/or from selling goods in the bills and invoices in the name of the proprietorship business of opposite party no. 1 i.e. 'Shree Durga Oil Industries' or any other name other than M/S. Vivekananda Oil Mill and/or from illegally siphoning money of Vivekananda Oil Mill till 01.02.2025 **on condition that the petitioners shall refer the matter to the Arbitrator within 90 days from the date of this Order, in view of Section 9 (2) of the Arbitration and Conciliation Act, 1996, as amended till date, and in default, this Order shall stand automatically vacated.**

Issue notice upon the respondents asking them to show cause within seven days from the date of receipt thereof as to why the prayer for temporary injunction shall not be granted.

The petitioners are directed to submit papers by the date fixed, showing that the Arbitration proceeding has commenced, in default, the above Order shall stand vacated.

Petitioners are directed to file requisites at once for issuance of notice upon the opposite parties.

To date.

Dictated and corrected by me.

D. J.

District Judge, Howrah.