

T.S 686 of 2022

CNR No. WBSP0E0009482022

Order No.,4 Dated 02.12.2022:

Record is put up today on the prayer of the plaintiff so as to file amended plaint and fresh application U/O XXXIX rule 1 and 2 read with sec. 151 of CPC and Ld. Counsel for the plaintiffs also pleads for considering the prayer of ad interim injunction as there is urgency.

Let the amended plaint be kept with the record.

This is a suit for declaration and permanent injunction.

No caveat is pending as per report of the Sheristadar.

It is, inter alia, stated by the plaintiff that he acquired the A schedule plot of land by dint of a registered deed of partition being no. 7349/1993, which was subsequently rectified by a declaration deed being no. 185/2018. Subsequently, the plaintiff got a sanctioned building plan from Rajpur-Sonarpur Municipality and entered into a development agreement with the defendants. In pursuance to the registered development agreement being no. 4127/2019, a construction work scheduled to have commenced over the A schedule suit property to complete a proposed G+3 storied building. One power of attorney was also executed along with the development agreement for completion of the construction work but the construction was not completed till now and no further development had been made by the defendants in this regard. Owing to that, the plaintiff sent a notice to the defendants, seeking explanation to the delay and violation of the terms of the development agreement which they failed to reply. Subsequently, the plaintiff came to know from a reliable source that the defendants have no intention to complete the work and defendants were also involved in malpractice. The defendants have suppressed materials facts and obtained the development agreement by practicing fraud. As such the cause of action arose, and the plaintiff instituted the suit praying for declaration of A schedule property and B schedule development and power of attorney and now praying for ad interim injunction against the defendants.

Perused the petition U/O XXXIX R(1) & (2) of CPC r/w Sec 151 of CPC, supported by an Affidavit along with the plaint and several relevant documents filed by the plaintiff.

Considering the above facts and circumstances, it appears that the plaintiff has a prima facie case to go for trial. The plaintiff has filed the original deed of partition being no. 7349/1993 along with sanctioned plan, certified copies of development agreement, Power of Attorney and notice in support of his prima facie case and dispute. If time is consumed in serving the notices to the defendants and in the meantime, any third party interest is created on the basis B schedule agreement and Power of attorney or any further construction is made over A schedule property then multiplicity of proceeding may arise and the plaintiff may also suffer irreparable loss and injury.

Issue notices upon the defendants calling upon them to show-cause within fifteen days from the date of receipt of this order as to why temporary injunction shall not be granted as per prayer of the plaintiff.

Hence, it is

Ordered

that the ad-interim prayer of the plaintiff is considered and allowed ex parte without any order as to costs considering the pleading of urgency.

That the defendants are restrained from creating any interest in respect of the B schedule development agreement and power of attorney and both the plaintiff and defendants are directed to maintain status quo in respect of nature, character and possession over A schedule suit property till, 05.01.2023.

Plaintiff to comply the provision U/O XXXIX R3(a) and 3(b) at once.

To date.

D/C by

sd/-

SUNITA SAHA
Civil Judge (Jr. Divn.), 2nd Court
Baruipur, South 24-Parganas

sd/-

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Civil Judge (Jr. Divn.), 2nd Court
Baruipur, South 24-Parganas

