

In The Court of Civil Judge (Junior Division)
Lalbagh, Murshidabad
Title Suit 315 of 2021
Present: Suman Das
Civil judge(Jr. Div), Lalbagh.

Order No. 12 Dated 06/02/2024

Record is taken up for disposal of the temporary injunction application in final form.

Both parties file hazira.

Heard Ld. Advocate for both sides at length.

Perused the documents relied upon by the parties.

It is well settled that the matter of granting temporary injunction is based upon the consideration of three basic principles which are as follows:

Firstly, whether the plaintiff has come up with a strong prima facie case or not;

Secondly, whether the balance of convenience and inconvenience tilts in favour of the plaintiff; and

Thirdly, whether the plaintiff would suffer an irreparable loss if no injunction is granted at all; and

Lastly, the conduct of the plaintiff.

The instant suit appears to have been filed for eviction of defendant as licensee wherein it is the bone of contention of the plaintiff/brother that he purchased the suit property at a valid consideration of Rs. 1,43,693/- on 10.10.2018 by dint of registered deed of sale no. 10491/2018 from his elder sister/defendant and thereafter raised brick built construction for residential purpose and subsequently in the first part of January, 2020 he allowed defendant/sister to stay temporarily in the dwelling house verbally and in the event of not leaving dwelling house on several requests made lastly on 15.06.21, he orally revoked the said license on 20.08.21 leading to the status of the defendant/sister being that of a trespasser and finally he filed this suit for eviction.

On the contrary, it is the bone of contention of the defendant/sister that plaintiff/brother fraudulently procured the relevant deed of sale by taking the advantage of her illiteracy, simplicity and old age ailments. Plaintiff procured the same in collusion with the scribe of the deed as well the witnesses of it and had there been any independent advisor or any knowledge in the matter of such alienation, she could not execute such deed.

Thus, on overall consideration of the rival contention of the parties as well as the relevant deed of sale which is apparently a registered one and purported to have been executed by the defendant bearing the sanctity of a registered instrument leading to the effect of alienation of the title of the vendor in favour of vendee in respect of the suit property and whereas on the contrary, the defendant/sister does not come up with a specific counter claim

challenging the validity of such registered instrument, this court is of the view that the existence of a strong prima facie case of the plaintiff cannot be denied and moreover, apparently plaintiff being the valid purchaser of the suit property at a valuable consideration price cannot be deprived from such title so there remains balance of convenience and inconvenience in his favour and as it is an well recognized legal principle that once a licensee made any act leading to erection of permanent structure over the licensed property, the license becomes irrevocable one so the question of suffering an irreparable loss can be said to be falling in favour of the plaintiff title holder.

In the backdrop of the foregoing observation, this court is of the clear view that plaintiff of this suit deserves to be entitled for an order of temporarily injunction and the order passed by this court at the very initial stage on ex parte can be said to be justified one which does not require any intervention at all so as to protect the interest of the plaintiff of this suit over the suit property until final adjudication of the dispute in controversy.

Hence, it is

ORDERED

that the temporary ad interim injunction as prayed for is hereby considered and allowed on contest.

By virtue of the instant order the ad interim rule issued by this court vide order no 02 dt 01.09.2021 restraining the defendant from making any construction of any permanent structure over the suit property is hereby made absolute to be remained in force until final disposal of this case.

In the event of final consideration of the temporary injunction application, the extension application becomes infructuous one and stands disposed of accordingly.

Let a date be fixed for framing of issues.

To _____ for framing of issues. .

D/C by me

**Civil Judge (Junior Division),
Lalbagh**

**Civil Judge (Junior Division),
Lalbagh**