

MISC. CASE NO. 41 OF 2021  
C. N. R. NO. WBPS01-000153-2021  
Before Smt. A. Bhattacharya, Ld. Judge, 5<sup>th</sup> Bench.

ORDER NO. 59 DATED 05.09.2024

Both parties file haziras.

Today is fixed for hearing of the petition dated 03.09.2022 filed by the O.P.

Plaintiff's contention in the petition under Sec.340 read with Sec.195 of Cr.P.C. is that the defendants have made false averment, conceal fact, raise plea, produce false document, deny genuine document, it will successfully stall the litigation and in any case, delay the matter endlessly committed perjury by filing false affidavit and it is also pertinent to be aware regarding a deep rooted conspiracy by the defendants. According to the plaintiff, defendants have made false statements regarding purchase of 50% share in the suit premises and denied of their status as tenants in respect of the suit property. The erstwhile owner namely Smt. Bisakha Nandy, since deceased, did not sell any property to the defendants. Thus, the defendants have made false statements in their written statement. Plaintiff further stated that that the defendants a) has intentionally made false statement (orally or in written) in evidence to prove the fact, which is an offence u/s.191 of IPC, 1860; and/or b) has fabricated/made a document containing the false statement; or has created a fake/(non-existent) circumstances; and thereby has given in evidence the said document containing the false statement, given in evidence of fake/non-existent circumstances, to prove the fact, which is an offence under Sec.192 of IPC, 1860 and/or c) has knowingly issued or signed a false evidence, as genuine evidence, which is an offence under Sec.196 of IPC 1860. (It would include such cases where the person although is not involved in fabricating false documents, yet tender those false documents in evidence knowing well that the said documents are false; and/or d) has knowingly issued or signed a false certificate which were used in evidence, which is an offence under Sec.197 of IPC, 1860; and/or e) has knowingly used a false certificate, as true certificate in evidence, which is an offence under Sec.198 of IPC, 1860; and/or f) has intentionally made a false statement in one's pleadings, as to the point which was very material to the facts of the case/issues which were agitated before the Court, which is an offence under Sec.199 of IPC 1860; g) has knowingly used pleadings containing the false statement, as true, which is an offence under Sec.200 of IPC 1860. (It would include such cases where the person although does not himself make false pleadings, yet uses those false pleadings knowing well that the said pleadings are false).

The plaintiff, therefore, prays that a) the Hon'ble Court be pleased to initiate enquiry into the allegations made against defendants no.1 and 2 herein; defendants in

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written statement filed in 1<sup>st</sup> page 9<sup>th</sup> line quote “Neither the plaintiff nor Mr. Radha Nath Nandy is the landlord of the defendants. The plaintiff is not the owner by dint of deed of purchase in respect of 50% share, a portion of premises no.9A, Chaitan Sen Lane, Kolkata-12. The defendants challenge the validity and legality of the ownership of the plaintiff.” AND page-3, 10<sup>th</sup> line “Defendants are not the tenants of Kanchan Nandy or the plaintiff and as such defaulter as claimed by the plaintiff against the defendants in payment of rent more than 39 years of Rs.42/- per month does not arise and cannot arise in respect of the half portion at premises no.9A, Chaitan Sen Lane, Kolkata-700012.” AND bottom 2<sup>nd</sup> line “The plaintiff allegedly claiming to be the landlord of the defendants in respect of undivided half portion of share of premises no.9A, Chaitan Sen Lane, Kolkata-700012.” unquote committed perjury because my own mother-in-law Smt. Bisakha Nandy (deceased) did not sold the suit property to defendants at no point of time, written statement by oath in affidavit by defendants and playing pranks of judicial institution and false statements and intering in the administration of justice.

b) The Hon’ble Court in due exercise of powers contained in Sec.340 r/w 195 of Cr.P.C., 1973, be caused to make a complaint in writing. In the alterantive of Clause (b) above, the Hon’ble Court may please to make reference intitiate Perjury proceedings under Sec.340 r/w 195 Cr.P.C. 1973 against the respondents No. 1 and 2 herein.

c) Any other and such further relief as the circumstances deem fit and proper be granted.

Plaintiff files one certified copy of judgment dated 20.01.1966 passed by the Hon’ble High Court, Calcutta in connection with F.A. No. 696/1961 and 697/1961 where the Appeals were allowed and the decrees passed by the Ld. Trial Court in connection with Ejectment Suit No.1134 and 1135 of 1959 were dismissed.

Thus, the document filed by the plaintiff is not in consonance with his submission that a decree of eviction was passed against the predecessor-in-interest of the defendants herein and upheld by the Hon’ble High Court, Calcutta.

From this judgment, it appears that there is no decree of eviction passed against the defendants or their predecessor-in-interest. The defendants, in their written statement, have challenged the title of the plaintiff in respect of the suit property and also denies existence of any relationship of landlord and tenant between the plaintiff and the defendants.

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Defendants, on the other hand, have claimed to be owners of undivided half share of the suit premises which they have purchased from one Kanchan Nandy, wife of Ganesh Chandra Nandy and have also filed a xerox copy of Deed of Purchase dated 08.08.1979.

From the schedule-B of the plaint, it appears that the plaintiff admits that the suit premises was jointly purchased by Bisakha Nandy and Kanchan Nandy by way of registered Deed of Sale being No.3210 dated 02.09.1957.

The question of 50% title of the defendant in respect of the suit premises and the question of existence of relationship of landlord and tenant between the plaintiff and defendants can be determined only after recording of evidence. At this stage, on primary enquiry, I do not find any material to come to the conclusion that the defendants have made any false statement on affidavit before this Court.

In view of the discussion made above, the petition under Sec.340 and Sec.195 of Cr. P.C. is devoid of merit and the same is liable to be rejected at this stage.

Hence, it is

**ORDERED**

that the instant Misc. Case stands dismissed on contest but without cost.

Petitioner also files one petition praying for taking back the original judgment in F.A. No. 696/1961 and 697/1961 to be produced in C.O. No.3612/2022 before the Hon'ble High Court, Calcutta probably to be listed on 06.09.2022

Heard. Considered.

Prayer is allowed.

Let the original judgment passed in F.A. No.696/1961 and 697/1961 be returned the plaintiff as per law on an undertaking to refile the same as and when called for.

Dictated and corrected by me,

JUDGE

JUDGE  
[5TH BENCH]