

MISC. CASE NO. 29 OF 2020
EJ. EXECUTION CASE NO. 79 OF 2016
C. N. R. NO. WBPS01-000168-2016
Before Sri Sridhar Chandra Su, Ld. Judge, 5th Bench.

ORDER NO. 57 DATED 02.04.2022

Today is fixed for delivery of order in respect of petition under Sec.151 of C.P.C. dated 20.03.2021.

Both parties have filed their respective haziras.

The record is taken up for order.

By filing the instant petition, the petitioner has prayed for temporary injunction restraining the O.P./decreeholder from disturbing the peaceful right, title, interest, possession and enjoyment of the suit premises and also restraining the O.P./decreeholder from executing judgment and decree dated 30.03.2016 passed by this Court on the ground stated therein.

Ld. Advocate for the petitioner has submitted before this Court that the judgment and decree dated 30.03.2016 in connection with Ej. Suit No. 6955/2014 was executed vide Ej. Ex. Case No.79/2016 and thereafter filed one Misc. Case No. 176/2016 for police help wherein decreeholders have practised fraud upon the Court as well as upon the petitioner and the petitioner prayed for temporary injunction restraining the O.P./decreeholder from disturbing the right, title, interest and enjoyment of the petitioner in respect of the suit property and also restraining the O.P./decreeholder from executing the judgment and decree dated 30.03.2016 till the disposal of the instant Misc. Case. He has further submitted that the Misc. Case No.176/2016 will be stayed till the disposal of the instant Misc. Case.

On the other hand, ld. Advocate for the O.P. submitted that the present petition is not maintainable as because the petitioner of this Misc. Case is not a party to the Misc. Case No.176/2016. He has further submitted that the decree of the original Ejectment Suit No.6955/2014 was not passed against the petitioner of this Misc. Case.

Considering the materials on record along with submission of ld. Advocates for both sides, I found that at this stage, there is no scope to grant temporary injunction against any of the parties of the instant Misc. Case. It is clear from the materials on record that the petitioner was not a party in the Misc. Case no.176/2016. At this stage, there is no scope to grant any stay in Misc Case No.176/2016.

Hence, the petition dated 20.03.2021 filed by the petitioner is considered and hereby rejected.

However, the present Misc. Case will be disposed of simultaneously with Misc. Case No.176/2016.

Fix 07.05.2022 for hearing of Misc. Case.

Dictated and corrected by me,

JUDGE

JUDGE
[5TH BENCH]
J.O. Code No. WB-00-620.