

T.S. 475 of 2022
CNR No. WBSP09-000755-2022

Dated: 07.11.2022

The record is put up today on the strength of a petition filed by the plaintiffs.

The plaintiffs have filed an application under Order 39 Rules 1 and 2 of CPC read with Section 151 of CPC for an order of ad-interim injunction.

As per report of the Sheristadar, no caveat is pending. The said application is taken up for hearing. Heard the Ld. Advocate for the plaintiffs.

Perused the plaint, injunction application supported by and affidavit and other documents. Considered.

This is a suit for declaration and permanent injunction.

It appears from the plaint as well as the injunction application, supported by an affidavit, that the defendant nos. 1 to 5 are the owners of premises no. 7/2/H/6 Dr. Manindra Chatterjee Sarani by way of inheritance. The plaintiff no. 1 is a tenant in respect of Schedule A property at a monthly rental of Rs. 270/-. Plaintiff nos. 2 and 3 are joint tenants under defendant nos. 1 to 5 in respect of Schedule B property at a monthly rental of Rs. 275/-. The plaintiffs regularly paid rent to the defendant nos. 1 to 5 in respect of Schedule A and Schedule B properties and subsequently the plaintiffs have been depositing rent before the Ld. Rent Controller. Recently, the defendant no. 6 came to the suit property and informed the plaintiffs that he has purchased the premises from defendant nos. 1 to 5 and is interested in constructing a multi-storied building. The plaintiffs informed defendant no. 6 that no letter of attornment has been served upon them and requested the defendant no. 6 to serve letter of attornment. The plaintiffs also requested the defendant nos. 1 to 5 to serve letter of attornment but they threatened the plaintiffs and asked them to vacate the suit property at the earliest. On 28.10.2022, the defendant no. 6 came to the suit premises and threatened the plaintiffs to leave their tenanted portions within 15 days in lieu of Rs. 50,000/- each. On finding no other alternative, the plaintiffs have filed the instant suit for and have sought for a restraining order against the defendants.

In support of their contentions, the plaintiffs have filed the original and photocopies of Rent receipts issued in the name of the plaintiffs up to 2017, Voter I.D. Cards, Ration Cards, Gas Book, Electricity Bills, School Certificate, Rent Controll Challans and Bank Passbook.

In the course of hearing, Ld. Advocate for the plaintiffs submitted that the plaintiffs are bona fide tenants in respect of Schedule A and Schedule B properties and recently they came to know that defendant no. 6 has apparently purchased the suit premises but no letter of attornment has been served upon the plaintiffs. It is his contention that the defendants are forcefully trying to evict the plaintiffs from the suit properties without due process of law. As such, the plaintiffs have sought for a restraining order against the defendants.

On perusal of the plaint, it appears that the plaintiffs have sought for a declaration to the effect that "plaintiff no. 1 is a tenant under defendant nos. 1 to 5 in respect of Schedule A property and the plaintiff no. 2 and 3 are joint tenants under the defendant nos. 1 to 5 in respect of Schedule B property". The plaintiffs have filed rent receipts up to 2017 and subsequent Rent Controll Challans up to October 2022, to show that they have been paying rent in respect of Schedule A and Schedule B properties. The plaintiffs have also relied upon the current electricity bills, gas book and ration card to establish that they are in possession of the Schedule A and Schedule B properties. However, it will be pertinent to highlight that no document has come on record to show that the defendants had made any attempt to dispossess the plaintiffs without due process of law. Moreover, no document has come on record that any such alleged attempt was made by the defendants on 28.10.2022. As such, I do not find any urgency to allow the prayer of the plaintiffs without giving the defendants an opportunity of being heard.

Hence, the present application for ad-interim injunction is considered and refused at this stage.

Issue notice upon the defendants to show cause, within 15 days from the date of receipt of the notice, as to why the plaintiffs' prayer for temporary injunction shall not be allowed.

To date (09.12.2022) for S/R A/D.

Civil Judge (Jr. Division)
1st Court, Sealdah
(UID: WB01468)

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