

In the Court of District Judge, South 24-Parganas

Misc. Appeal No. 12 of 2024 (R-12 of 2024)

CNR No. WBSP01-000953-2024

Present : Sri K.K. Agarwal (WB01429) District Judge-in-charge,

South 24 Parganas at Alipore

Mr. Shahid Hussain

...Appellant

Vs.

Mr. Chandan Mukherjee

... Respondent

Order No. 01, dated 19.01.2024

The instant Misc. Appeal under Order 43 Rule 1(r) read with section 151 of the C.P.C is at the instance of the appellant against the respondent to impeach the order dated 18.01.2024, passed by the Ld. Civil Judge (Sr. Divn.) 7th Court at Alipore in Title Suit No. 96 of 2024.

Court fees paid by the appellant is correct.

Downloaded copy of the impugned order has been filed. Register.

Appeal is filed within the prescribed period of Limitation as per downloaded copy. As such, there is no impediment to admit the appeal and, thus, the appeal is admitted.

Appellant files an application for leave to proceed the appeal on the basis of downloaded copy. Leave is granted to the appellant to proceed with the appeal on the basis of downloaded copy.

Requisites filed by the appellant.

At this stage, the appellant file an application under Order 39 Rule 1 and 2 read with 151 of Civil Procedure Code and the same is taken up for hearing.

As per office report, no caveat has been filed.

Ld. Advocate for the appellant submits that the impugned order is not sustainable as the Ld. Trial Court, even though appreciated the facts and circumstances of the case, refused the ad-interim order of injunction on the grounds which are not sustainable.

It is submitted that the appellant is in possession of the suit property on the basis of purchase of the suit property by the father of the appellant through two various registered Deeds and the father of the appellant gifted the entire

suit property to the appellant by way of registered Gift Deed.

It is submitted that the appellant is paying property tax and his name is mutated in the records of the K.M.C against which necessary documents have been filed.

It is submitted that the respondent is an outsider having no right, title and interest in the suit property and is trying to enter into the suit property without any authority and the appellant has also made police complaint and also filed an application under section 144(2) Cr.P.C before the Ld. Executive Magistrate at Alipore. As such, the appellant prays for necessary order.

Heard the submissions of Ld. Advocate for the appellant.

Considered the submissions and perused the impugned order and the materials on record, including the annexures annexed with the injunction application, from which it is seen that the submission of the appellant is sustainable and the appellant has been able to make out a prima facie arguable case and criteria of balance of convenience and inconvenience and irreparable loss and injury is also present. As such, the appellant is entitled to get an ad-interim order till hearing of the other side.

Hence, it is,

ORDERED

that the prayer for an order of ad-interim injunction is allowed in favour of the appellant till **20.02.2024**.

Both parties are directed to maintain status quo in respect of possession of the appellant in the suit property till **20.02.2024**.

The appellant is directed to comply with the provisions as enumerated under Order 39 Rule 3(a) and (b) of the C.P.C.

Issue notice.

Fix **20.02.2024** for S/R and A/D.

Dictated & corrected by me,

Sd/- Sri K.K. Agarwal
District Judge, I/c

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District Judge, I/c