

In the Court of District Judge, South 24-Parganas

Misc. Appeal No. 364 of 2024 (R-364)

(CNR No.WBSP01-013077-2024)

Present : Smt.Madhumita Chowdhury (WB00954) District Judge I/c,
South 24-Parganas at Alipore

Sri Ashim Chandra Appellant/Plaintiff

Vs.

Sri Santosh Mondal & Ors. Respondents/Defendants

Order No.02, dated 05.10.2024

The record is put up today at the behest of the appellant.

By filing an application U/o 39 rule 1 & 2 read with sec. 151 CPC the appellants has prayed for an order ad interim injunction against the order dated 09.09.2024 passed by the Ld. 3rd Additional Civil Judge (Jr. Division) at Alipore in Title Suit No.1514 of 2024.

Original certified copy of the impugned order has been filed.

Court fees paid by the appellant is correct.

Register.

Appeal is filed with the period of Limitation. As such, there is no impediment to admit the appeal and, thus, the appeal is admitted.

Requisite has not been filed.

At this stage, appellant filed an application u/o 39 rule 1 & 2 read with section 151 C.P.C. for injunction. The said application is taken up for hearing.

It appears from the record that no caveat has been filed.

It is stated that the appellant/plaintiff is a refugee and came from the then East Pakistan (Bangladesh) and took shelter at Jodhpur side since long and staying there under the direction of West Bengal Government. As the room/suit property was heavily damaged by falling of a tree so, the appellant/plaintiff, they took initiative to reconstruct the same. But the defendants/respondents objected the same for

(contd.....order no.02 dated 05.10.2024 in Misc. Appeal No.364 of 2024)

reconstruction. As such, the appellant/plaintiff filed the suit for an ad interim order of injunction. But after hearing the submission of the plaintiff, the Id. Trial Court has been pleased to refuse the prayer for ad interim injunction. Hence, this appeal.

Ld. Advocate for the appellant/plaintiff prays for an order of ad-interim injunction by restraining the respondents/defendants from any kind of interference of the lawful possession and/or any kind of interference at the time of reconstruction of the broken room on the schedule property, mentioned therein.

Heard the submission of Ld. Advocate on behalf of the appellant.

Perused the materials on record.

Perused the materials on record, documents including original domestic gas consumer card, allotment letter issued by the Secretary, Jodhpur Colony Committee, etc. and the copy of order passed by the Ld. 3rd Additional Civil Judge (Jr. Division) at Alipore in Title Suit No.1514 of 2024, as filed. On perusal of these documents, this Court is of the opinion that the appellant has not been able to make out a prima facie case or prima facie title in his favour and, as such, no order of ad-interim injunction can be passed without hearing the other side.

Hence, it is,

ORDERED

that the prayer for an order of ad-interim injunction is refused.

Issue notice.

Requisites at once.

Todate i.e. 30.11.2024 for S/R and A/D.

Dictated and corrected by me
Sd/- Madhumita Chowdhury
District Judge I/c

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(WB00954)