

In the Court of the District Judge, South 24 Parganas at Alipore

Present : Sri Dinanath Prasad (WB00639) District Judge I/c, South 24 Parganas at Alipore

Misc. Appeal No. 131 of 2024 (R-131 of 2024)

Order No. 02 dated 22.04.2024

The record is taken up at the instance of the put up petition filed by the Ld. Advocate for the appellant along with an application under Order 39 Rule 1 and 2 read with Section 151 of the C.P.C.

It appears from the record that the instant appeal is filed within the period of limitation. As such, the appeal is admitted.

Now, the application under Order 39 Rule 1 and 2 read with Section 151 of the C.P.C filed by the appellant is taken up for hearing.

It appears from the office report that there is no caveat.

It is submitted on behalf of the Ld. Advocate for the appellant that the suit property is originally belonged to Asutosh Mondal who is the predecessors of the defendant/respondent nos. 2 to 22 and as such they acquired right title and interest over the suit property. Subsequently, they along with their predecessor executed a registered power in favour of Abani Naskar and the said Abani Naskar in absence of respondent nos. 2 to 12 and their predecessor executed a deed of conveyance. The said Abani Naskar also executed a deed of sale on their behalf but the same is pending before registration. The appellant paid stamp duty and registration cost on valuation of Rs. 98,000/- only and got the same executed but the said property was valued at Rs. 18,72,000/- where upon the appellant was required to pay balance of stamp duty and registration cost amounting of Rs. 1,14,260/-. The appellant could not be able to pay the balance amount as he could not arrange the same. Thereafter suddenly the defendant/respondent no.1 came with one Local Surveyor and started measuring the suit property. Subsequently the appellant started searching and after the same is completed, he came to know that the respondents have no right, title and interest over the suit property. Accordingly, the appellant/plaintiff moved an interim application before the Ld. Court below and upon hearing the same, the same was refused. As such, he prays for an order of ad-interim injunction restraining the the respondent no.1 and their men and agents from dispossessing the appellant/plaintiff and/or interfering with the peaceful possession of the appellant in the suit property and also restraining them from creating third any third party interest in respect of the suit property.

Heard the Ld. Advocate for the appellant.

Perused the annexures annexed with the injunction application.

Upon considering the submission and after careful perusal of the documents, the appellant has able to make out a prima facie case in his favour. The balance of convenience and inconvenience is also in favour of the appellant. As such, this Court is of view that an order of ad-interim injunction should be passed, otherwise the appellant shall suffer irreparable loss and injury. **Hence, the prayer for ad-interim injunction is allowed till 22.05.2024.**

Accordingly, the respondent no.1 and his men and agents are restrained from creating third party interest in respect of the suit property till 22.05.2024.

Issue notice.

Appellant is directed to comply with comply with the provision under Order 39 Rule 3(a) and 3(b) of the C.P.C.

Requisites at once.

Fix 22.05.2024 for SR and AD.

D/C by me,

Sd/- Sri Dinanath Prasad

District Judge I/c

Sd/- Sri Dinanath Prasad

District Judge I/c

(WB00639)