

In the Court of Ld. District Judge, South 24-Parganas

Misc. Appeal No. 294 of 2023 (R-294)

Present : Sri Dinanath Prasad (WB00639) District Judge-in-charge,
South 24 Parganas at Alipore

CNR- WBSP01-012224-2023

Santanu Ganguly & AnrAppellants

Versus

Subrata Chatterjee & Ors.Respondents

Order No. 01, dated 24.08.2023

The instant Misc. Appeal under order 43 rule 1(r) read with section 151 of C.P.C is at the instance of the Appellants against the respondents to impeach the order dated 19.08.2023 passed by the Learned Civil Judge (Jr. Divn) 3rd Court at Alipore in Title Suit No. 1270/2023.

Court fees paid by appellants is correct.

Certified copy of the impugned order has been filed.

Register.

Appeal is filed within the period of limitation. So, there is no impediment to admit the appeal and hence, the appeal stands admitted.

Requisites is not filed.

At this stage appellant files an application u/s 39 Rule 1 & 2 read with Section 151 C.P.C for injunction and the same is taken up for hearing.

There is no caveat, as per report of Sherestader.

Prima facie it appears that the plaintiffs are the owners and possessors of the suit property and obtained necessary permission for sanction plan thereon. If the defendants are brokers / promoters as alleged by the appellants, then they have no right to obstruct the appellants in doing construction work.

Ld. Advocate for the appellants prays for restraining the respondents and their men and agents from doing any illegal acts, obstruction,

encroachment and disturbing the appellants in the suit property as per sanctioned building plan in any manner whatsoever and also from interfering with or in any manner to disturb the peaceful possession of the plaintiffs in respect of the suit property on the grounds as stated in the said application.

I have heard the submission of the Ld. Advocate for the appellants. I have perused the application which has been supported by an affidavit and the documents annexed herein.

Considering the materials available in the record, it appears that the appellants have been able to make out a prima facie case in their favour and the balance of convenience and inconvenience is also in favour of the appellants. If, at this stage, an order of ad-interim injunction is not passed in favour of the appellants, then the appellants will suffer irreparable loss and injury and the purpose of filing the instant appeal will become infructuous.

Hence,

it is,

ORDERED

that the prayer for an order of ad-interim injunction is allowed in favour of the appellants till **22.09.2023**.

The respondents, including his men and agents, are, hereby, restrained to obstruct the construction work of the appellants in the suit property at the sanctioned building plan till **22.09.2023**.

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

Issue notice.

Requisites at once.

Fix **22.09.2023**, for S/R and A/D.

Dictated & corrected by me,

Sd/- D. Prasad
District Judge, I/c

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