

Misc Appeal no. 80 of 2024

Order No. 1 dated 23.12.2024

The instant Misc appeal was preferred against order dated 20.12.2024 passed by Civil Judge (Jr. Divn) 1st Court, Sealdah in TS suit No. 529 of 2024 wherein the prayer for ad-interim injunction was refused.

From the noting of the dealing assistant it is found that there is no caveat in this case.

The instant Misc. Appeal is taken up on the point of admission hearing. Heard the Ld. Advocate for the appellant/plaintiff, perused the impugned order and memo of appeal and considered. The appeal is filed within time. There is sufficient prima facie grounds to admit the instant appeal. Accordingly, the appeal is admitted.

The appellant/plaintiff is directed to file requisites with process fees for service of notice upon the respondents at once.

Office is directed to issue notice on receipt of requisites.

Ld. Lawyer for the appellant/plaintiff moves the petition under order 39, rule 1 and 2 of CPC.

As per the plaint, the case of the appellant in gist is that by virtue of an agreement dated 14.01.1976, the plaintiff/appellant was inducted as tenant under Jugal Kishore Popli on payment of monthly rent of Rs. 10/-.

Subsequently, the plaintiff/appellant became the Thika Tenant under the State of West Bengal and he started to pay the calculated rent to the Thika Controller and also was running a business in the said property.

It was the version of the appellant that the present respondent, with a malafide intention started to disturb the peaceful occupation of the present appellant in the suit property.

It also appears that to prevent the respondent, the present appellant had preferred application before the Ld. Executive Magistrate, Sealdah and the Ld. Magistrate has been pleased to instruct the Police Station to maintain peace and tranquility.

It also appears from the plaint that the defendant is trying to dispossess the present appellant from the suit property and to prevent the legal possession of the present plaintiff/appellant the suit was filed with a prayer for ad-interim injunction, which was refused by the Ld. Court.

I have perused the documents furnished by the appellant. It prima facie shows that the plaintiff/appellant is now in possession of the suit property and as such, any interference from any outside force to dispossess him, will not be proper.

In this regard, I want to rely the decision of the Hon'ble Apex Court as reported in *AIR 2004 SC 4609*.

At the same time, I think that the respondent must get an opportunity to place his case.

I am also of the view that if in the meantime, the respondent can dispossess the present appellant, the very purpose of filing of the suit will be frustrated.

Under the circumstances, to save the appellant from any such encroachment/dispossession, I think that both the appellant and respondent be directed to maintain status quo in respect of the suit property as it stands on this day, till next date of hearing.

The appellant is directed to take proper step in this regard.

Fix **16.01.2025** for SR/ AD and appearance and hearing.

The documents as filed by the appellant be returned to the appellant.

Let the case record be transferred to the court of Ld. ADJ, FTC, 1st Court, Sealdah or disposal of the instant Misc appeal.

The appellant is directed to turn up before that court on the next date.

D/C by me

(Anirban Das)/WB00691
ADJ- 1st Court, Sealdah

(Anirban Das) WB-691,
Addl. District Judge,
1 Court, Sealdah