

Present: Sri Srikumar Goswami (JO Code WB00714)

Judge, Commercial Court at Alipore.

Money Suit 24/2021

(CNR no. WBSP18-000085-2021)

Order no. 02

04.10.2021

*In the matter of :
Suit for recovery of
money alongwith declaration
and injunction valued
at Rs.6,64,32,911/-.*

And

*In the matter of :
Machino Techno Sales Ltd.*

Vs.

*In the matter of :
Machino Transport Pvt. Ltd.
& 02 ors.*

Appearance for the Plaintiff/Petitioner:

Mr. Sayantan Das ... Ld. Counsel.

Mr. Anirban Ray ... Ld. Counsel.

Mr. Ratnesh Rai ... Ld. Counsel.

Mr. Ankan Rai ... Ld. Counsel.


ORDERED

1. The record is put-up by a petition on behalf of the Plaintiff today.

I.A. no. 01/2021

1. At this stage, the Ld. Counsel Mr. Sayantan Das appearing on behalf of the Plaintiff/Petitioner, moves the present application for granting of leave under Section 12A of the Commercial Courts Act, as amended from time to time on the ground that some urgent relief is sought for in order to protect the interest of the Plaintiff/Petitioner.

2. Heard.


Judge
Commercial Court at Alipore

3. *It appears that the suit contemplates an urgent relief by filing necessary application under Order XXXIX Rules 1 & 2 read with Section 151 CPC and therefore, the leave as sought for is granted.*
4. *Accordingly, the instant I.A. is disposed of.*

I.A. No. 02/2021

1. *Further, the Ld. Counsel of the Petitioner, Mr. Sayantan Das at this stage, moves the instant application praying for ad-interim order in terms of the prayers of the instant application.*
2. *Office noted that there is no caveat against any party in the instant case.*
3. *Issue notice returnable by **18.11.2021**.*
4. *Affidavit of service within 24 hours.*
5. *The Petitioner is also directed to issue notice alongwith the plaint and all annexures and all relevant documents at once through Email or Whatsapp or any other mode as prescribed by the Hon'ble Supreme Court of India.*
6. *I have heard the Ld. Counsel Mr. Das as well as perused all relevant documents as annexed with the plaint as well as with the instant application.*
7. *Perused and considered the present application.*
8. *It appears from the submission of the Ld. Counsel that:*
 - a. *The Plaintiff/Petitioner is the owner of the schedule property and the said property is used for the purpose of warehousing to be let*

out to the interested parties who require warehouse space to store their goods and merchandize.

- b. On or about December, 2018, the Petitioner has come to know that the subject property was wrongfully and illegally leased out by the Defendants to one Prime Movers Auto Association Pvt. Ltd. and recently, the Petitioner came to know that a leave and license agreement was executed by the Defendant/Respondent no. 1 claiming itself to be a lessor had leased out the subject property to the third party and the Defendant/Respondent no. 1 executed such agreement illegally and accordingly, such agreement is null and void.
- c. It is also alleged that by executing such agreement, the Defendant/Respondent no. 1 has deprived the Plaintiff/Petitioner and such illegal practice was continued from 2010-11 to 2019-20 by repetitive encumbrances being created by letting out the subject property for a period of 11 months and the period being rolled over subsequently thereafter.
- d. In view of the above, the Plaintiff/Petitioner is entitled to receive a sum of Rs. 3,60,18,300/- from the Defendants/Respondents, being the amount which has been wrongfully realized by the Respondents till 2019-20.
- e. Accordingly, the instant application has been filed praying for ad-interim orders of injunction in terms of prayers of the said application.
9. From the instant record, it appears that the Plaintiff/Petitioner is the owner of the schedule property and that the said property is used as a warehouse for commercial purposes. However, at this stage, I do not find any commerciality in the present suit. I also do not find any urgency in the present application.


Judge
Commercial Court at Alipore

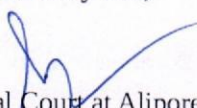
10. **Hence, the prayer for ad-interim order of injunction is hereby considered and refused at this stage .**


11. *Both sides have the liberty to make necessary application for modification of this order in case of emergency after service of notice upon the other side.*

12. *Issue notice accordingly to show cause as to why the instant application shall not be allowed alongwith plaint, injunction application and all annexures within 24 hours and the Plaintiffs/Petitioners are also directed to file the affidavit of service within 48s hours.*

13. *To date (18.11.2021 at 12.30 p.m.) for S/R, appearance, filing affidavit-in-opposition, if any, and also for hearing.*

Dictated and corrected by me,


Judge, Commercial Court at Alipore,
For South 24 Parganas, Purba Midnapore,
Paschim Midnapore & Jhargram
Judge
Commercial Court at Alipore


Judge, Commercial Court at Alipore,
For South 24 Parganas, Purba Midnapore,
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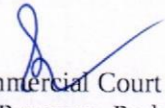
Later


It appears from the record that inspite of direction vide order dated 01.10.2021, the Plaintiff did not file any requisit and process fee today.

However, for ends of justice, the Plaintiff is further directed to file the said requisite and process fee positively within 24 hours, i.d. necessary order shall be passed.

To date.

Dictated and corrected by me,


Judge, Commercial Court at Alipore,
For South 24 Parganas, Purba Midnapore,
Paschim Midnapore & Jhargram
Judge
Commercial Court at Alipore


Judge, Commercial Court at Alipore,
For South 24 Parganas, Purba Midnapore,
Paschim Midnapore & Jhargram
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