

IN THE HIGH COURT AT CALCUTTA  
ORDINARY ORIGINAL CIVIL JURISDICTION  
ORIGINAL SIDE

EC/22/2024  
SWAPNA ROY  
VS  
SUVANKAR BANERJEE

BEFORE:

The Hon'ble JUSTICE PARTHA SARATHI SEN

Date : 13<sup>th</sup> February, 2025.

Appearance:

Ms. Tiana Bhattacharyya, Adv.  
Mr. Dilip Kumar Ghosh, Adv.  
For the decree-holder.

Ms. Noelle Banerjee, Adv.  
Mr. Dipak Dey, Adv.  
For the judgment-debtor.

1. In course of her submission learned Advocate for the decree-holder, at the very outset draws attention of this Court, to page 19 of the execution application. It is submitted that in terms of the settlement as filed before the appeal Court, the present judgment-debtor, Suvankar Banerjee is duty-bound to pay Rs.25,00,000/- by sale of properties as mentioned in serial no.1, 2 and 4 of the Second Schedule which is mentioned in page 23 of the instant application.
2. Ms. Bhattacharjee, learned Advocate for the decree-holder further draws attention of this Court to prayer (f) of Column 10 of the Tabular

Statement. It is submitted that an appropriate order of injunction may be passed in terms of the said prayer.

3. Per contra, Ms. Banerjee, learned Advocate appearing on behalf of the judgment-debtor submits before this Court that such prayer cannot be entertained in view of the fact that in terms of the said settlement, the judgment-debtor has to sell out the properties as mentioned in the Second Schedule of the terms of settlement which forms part of the appellate decree and further the judgment-debtor has to pay Rs.25,00,000/- to the decree-holder. It is further submitted by Ms. Banerjee that as on this day her client has paid Rs.4,50,000/- to the decree-holder which is not disputed by Ms. Bhattacharjee.
4. It is further submitted by Ms. Banerjee that this Court has no territorial jurisdiction to pass an order of injunction in respect of the properties which lies outside the territorial jurisdiction of the original side of this Court. Ms. Banerjee places reliance upon a reported decision in the case of **Mechano Paper Machines Ltd. Vs NEPC Papers & Boards Ltd. & Ors.** reported in **AIR 2012 Cal 26**.
5. On careful consideration of the entire materials this Court finds no force in the submission of Ms. Banerjee, inasmuch as at this stage this Court is not going to execute the decree beyond its territorial jurisdiction as has been prescribed under Section 39 of the CPC. This Court is conscious that this Court being an executing Court cannot go beyond the decree.

However, this Court being an executing Court has every power to pass an appropriate order to secure the decretal property intact so that the decree-holder must not be deprived of the fruits of the decree.

6. In considered view of this Court, the prayer as made in clause (f) of column 10 of the Tabular Statement is very innocuous inasmuch as the decree-holder has sought for an injunction restraining the judgment-debtor from dealing with and/or disposing and/or alienating or transferring and/or parting with the possession of the property mentioned in the Second Schedule of the terms of settlement which formed the part of the decree till a prospective buyer is identified.
7. Considering the entire circumstances, there shall be an order of injunction upon the judgment-debtor from disposing of and/or alienating and/or transferring and/or parting with the possession of the property as mentioned in serial no.1 and 4 of the Second Schedule of the said terms of settlement till the end of April, 2015.
8. Let the matter be listed on 6<sup>th</sup> March, 2025 for further consideration.

(PARTHA SARATHI SEN, J.)

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