

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

IA NO. GA/3/2022
[OLD NO. CS/197/2017]
In CS/54/2024
MANGAL BUILDERS AND ENTERPRISE LTD.
Vs
CAMBAY INVESTMENTS CORPORATION LTD. & ANR.

IA NO. GA/2/2021
[OLD NO. CS/197/2017]
In CS/54/2024
MANGAL BUILDERS AND ENTERPRISE LTD.
Vs
CAMBAY INVESTMENTS CORPORATION LTD. & ANR.

BEFORE:

The Hon'ble JUSTICE SUGATO MAJUMDAR

Date : 2nd July, 2024.

Appearance:

*Mr. Anirban Ray, Adv.
Mr. Satadeep Bhattacharya, Adv.
Ms. Upama Bhattacharjee, Adv.
...for the petitioner*

*Mr. Avinash Kankani, Adv.
Mr. S. Majumdar, Adv.
Ms. S. Chatterjee, Adv.
..for judgment debtor no.2.*

*Mr. M.S. Tiwari, Adv.
Mr. S. Mishra, Adv.
...for the intervener*

The Court:- GA/2/2021 is filed by intervenor praying for leave to be granted to intervene in the present proceeding and file the application with short cause title of the plaint along with other prayers.

The instant suit is one of partition between the owners. The applicant/proposed intervenor was inducted as a sub-lessee at the said

premises in terms of a deed of sub-lease and was put in possession thereof by the sub-lessor. The deed of sub-lease was executed on 14th November, 1969. The instant application is filed by the intervenor pleading therein that the plaintiff has filed the instant suit without impleading the applicant as a party so that Orders can be obtained without the applicant being heard; the applicant's right and interest in the premises would be seriously affected and interfered with unless the applicant is arrayed as a party; the applicant has reasons to believe that the present suit is a collusive one to disturb the settled possession of the applicant in the premises and further contended that the applicant is vitally interested in the subject matter of the suit along with other pleading. It is a crux of contention that applicant is a necessary party.

Learned Counsel for the applicant submitted and argued in the same tune.

Learned Counsel for the defendant no.2 invited attention to the contention that sub-lease in favour of the present intervenor expired on expiry of the month of April, 2024 and submitted that this point should be taken into consideration.

Mr. Ray, learned Advocate appearing for the plaintiff submitted that a tenant has no role to play in the partition suit and he is under no circumstance a necessary party. It is no longer *res integra* that in a partition suit, the owners are the necessary parties. The present applicant was a sub-lessee whose sub-lease admittedly expired on expiry of the month of April, 2024. A sub-tenant has no say in the partition suit between the co-owners.

As such, the applicant is not a necessary party and he has no *locus standi* to intervene in the suit in any manner.

Accordingly, GA/2/2021 stands dismissed and disposed of.

GA/3/2022 shall appear in the list on 23rd August, 2024 for hearing.

(SUGATO MAJUMDAR, J.)