

OD-8

ORDER SHEET

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

IA NO. GA/1/2024
In CS/180/2024

KHAITAN CONSULTANTS LTD
Vs
ASHOK KUMAR BAGARIA

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date : 18th September, 2024.

Appearance:
Mr. Mainak Bose, Adv.
Mr. V. V. V. Sastry, Adv.
Mr. Gaurav Khaitan, Adv.
Ms. Kushi Gupta, Adv.
...For the Plaintiff

The Court: The Court: Mr. Mainak Bose, learned Counsel, is appearing for the plaintiff.

Counsel for the plaintiff has filed the present application being GA/1/2024 praying for ad interim order of injunction restraining the defendant/respondent and or his men, agents and/or servants not to create any third party right, title and/or interest over and in respect of the suit schedule property. The plaintiff has filed the suit against the defendant for recovery of possession and mesne profit. As per the case of the plaintiff, the original tenant died prior to the coming into force of the West Bengal Premises Tenancy Act, 1997 and the present defendant being in occupation of the suit property as a legal representative of the deceased tenant but is not a tenant

within the meaning of section 2(g) of the West Bengal Premises Tenancy Act, 1997.

Counsel for the plaintiff submits that the plaintiff came to know that the defendant is trying to alienate or to create any third party interest over the suit property and submits that at this stage if ad interim order is not passed restraining defendant/respondent and or his men, agents and/or servants not to create any third party right, title and/or interest over and in respect of the suit schedule property, plaintiff will suffer irreparable loss.

Heard the learned Counsel for the plaintiff and perused the materials on record.

It is found that the original tenant died prior to coming into the force of the West Bengal Premises Tenancy Act, 1997 and after the death of the original tenant the legal representative is in possession of premises in question. As per the West Bengal Premises Tenancy Act, 1997, the legal representative cannot be termed as tenant and as such this Court finds that the plaintiff has made out a prima facie case and balance of convenience and inconvenience in favour of the plaintiff and at this stage if the plaintiff is not granted an ad interim order, there will be a chance of multiplicity of proceedings in future.

Accordingly, the defendant, his men, agents and/or servants are restrained from creating any third party right, title and/or interest over and in respect of the suit property till 20th November, 2024. The plaintiff is directed to serve the copy of the application, plaint and document and to file affidavit of service by the next date fixed.

The plaintiff is also given liberty to communicate the gist of this order to the defendant for compliance.

(KRISHNA RAO, J.)

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