

OD-1 & 2

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION

CS/218/2024

IA NO: GA/1/2024, GA/2/2024, GA/3/2024

TAGGAS INDUSTRIAL DEVELOPMENT LTD.

VS

SEWNARAYAN KHUBCHAND AND ANR.

With

CS/219/2024

IA NO: GA/1/2024, GA/2/2024, GA/3/2024

SOMNATH ENCLAVE PVT LTD.

VS

SEWNARAYAN KHUBCHAND AND ANR.

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: 9th December, 2024.

Appearance:

Mr. Mainak Bose, Sr. Adv.

Mr. Sabyasachi Sen, Adv.

Mr. Aniket Nanda, Adv.

...for the petitioner

Mr. Rajarshi Dutta, Adv .

Mr. Avijit Dey, Adv.

...for the defendant no.1

Mr. Surajit Nath Mitra, Sr. Adv.

Mr. Sakya Sen, Sr. Adv.

Mr. Bishajib Ghosh, Adv.

Mr. Avirup Chatterjee, Adv.

Mr. Rishov Das, Adv.

...for the defendant no. 2

The Court:- Mr. Mainak Bose, learned Senior Counsel appearing for the plaintiff. Mr. Rajarshi Dutta, learned Counsel appearing for the defendant no. 1. Mr. S.N. Mitra, learned Senior Counsel appearing for the defendant no. 2.

The plaintiff has filed the present application praying for interim order restraining the defendants from disturbing the possession of the plaintiff over the suit property. Counsel for the defendant raised objection and submitted that though the plaintiff has filed the application for grant of interim injunction but no averment has been made for grant of ad interim injunction at this stage. Counsel for the defendants submitted that the defendant no. 2 had already filed a suit before this Court against the defendant no. 1 wherein this Court has passed an order restraining the defendant, that is, the defendant no. 1 from raising any construction in the suit property or changing and character of the suit property. Counsel for the defendant no. 2 submits that the interim order passed by this Court is still in existence. Counsel appearing for the defendant no. 2 submits that there is no intention of the defendant no. 2 for disturbing the possession of the plaintiff over the premises in question and prays for time to file affidavit-in-opposition and also submitted that the defendant no. 2 has also filed an application being GA/3/2024 for rejection of plaint. Counsel for the defendant no. 1 submits that defendant no. 1 has leased out the premises to the plaintiff and other tenants and the defendant no. 1 is already suffering from the ad interim order passed in CS-COM/708/2024.

Considered the submissions made by the respective parties.

It is the specific submission made by the Counsel appearing for the defendant no. 2 that if a decree is passed in the suit filed by the defendant no. 2 being CS-COM/708/2024 against the defendant no. 1, the defendant no. 2 had to put the said decree in execution and at present the defendant no. 2 is not having any intention to evict any person without due process of law.

Considering the above, this Court finds that at this stage it is not necessary to pass any order of injunction. Accordingly, the defendant in GA/1/2024 is directed to file affidavit-in-opposition within two weeks from date. Reply thereto, if any, be filed within one week thereafter. As the defendant no. 2 has filed an application being GA/3/2024 for rejection of the plaint, the plaintiff is directed to file affidavit-in-opposition within two weeks from date. Reply thereto, if any, be filed within one week thereafter.

List the matter on 13th January, 2024.

Though this Court has passed an order for filing affidavit-in-opposition in connection with GA/1/2024 but the Counsel for the defendant no. 2 raised the question of maintainability of the suit. The same is kept open.

(KRISHNA RAO, J.)