

OD-26

ORDER SHEET

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

IA NO. GA/1/2025
In CS/225/2024

PRAVEEN KHEMKA AND OTHERS
Vs
KRISHNA MURARI SHROFF AND OTHERS

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date : January 16, 2025

Appearance:
Mr. Sourojit Dasgupta, Adv.
Mr. Vishwarup Acharyya, Adv.
...for the plaintiffs.

The Court: Mr. Sourojit Dasgupta, learned Counsel, is appearing for the plaintiffs.

The plaintiffs have filed the present application praying for ad interim injunction.

Counsel for the plaintiffs submits that initially the suit property was recorded in the name of Ram Chandra Dalmia. One Shri Srinivas Dalmia, grandson of Shri Ram Chandra Dalmia has mortgaged the said property for the purpose of his business and subsequently, he failed to pay the said amount and several litigations have been initiated before this Court and all the suits have been amicably settled between the parties. As per the settlement arrived at between the parties and in terms of the order passed by this Court, the suit property has been transferred in the name of the Nathuram Ramkishan Khemka Charitable Trust.

The property in question is full of tenants and the tenants who are in occupation of the property were not paying the monthly rent to the plaintiffs' trust. Accordingly, the plaintiffs' trust has appointed proforma defendant Nos. 7, 8, 9 and 10 who are the trustees of the trust, namely, "Shree Shiv Shakti Seva Trust" for collecting rent. The proforma defendants were collected rent since 2005 to 2016. Subsequently, the proforma defendants failed to pay any rent to the plaintiffs. All of a sudden the plaintiff, came to know from undated letter issued by one Vivek Murarka to one of the tenants of the suit schedule property in which it is mentioned that Shri Vivek Murarka is representing Festive Realcon Private Limited who is the defendant No. 2 herein and in the said letter it was informed that the defendant No. 2 has purchased the suit property from Krishna Murari Shroff and legal heirs of Shyam Sundor Dalmia by way of registered deeds dated 27th June, 2023 and 13th May, 2024.

Counsel for the plaintiff submits that on receipt of said undated letter of Vivek Murarka, the plaintiffs have applied for the certified copy of the alleged deed and after getting the certified copy of the deed, the plaintiffs came to know the suit property has been transferred in the name of the defendant No. 2 by the defendant No. 1.

Counsel for the plaintiffs further submits that the plaintiffs could not get hold another deed dated 13th May, 2024 which is also mentioned in the said undated letter of Mr. Vivek Murarka.

Counsel for the plaintiff submits that on 17th May, 1958 the land was transferred in the name of the plaintiff trust by way of Deed of Conveyance and since then the plaintiff trust is the owner of the said property. Now only

after getting the undated letter, the plaintiffs came to know the defendant No. 1 has transferred the said property in the name of the defendant No. 2. Now the defendant No. 2 is trying to enter into the property in question and also trying to collect the rent from the tenants of the property in question.

Counsel for the plaintiffs submits that the alleged deed on the basis of which the defendant No. 1 is trying to enter into the premises and trying to collect the rent is a forged document as the property was recorded in the name of the plaintiffs' trust by way of Conveyance Deed dated 17th May, 1958 and the plaintiffs' trust has never sold or transferred the said property either in favour of the defendant No. 1 or in favour of the defendant No. 2.

Counsel for the plaintiff submits that if an interim order is not passed by restraining the defendants from entering into the suit property and for collecting the rent from the tenants of the suit property, the plaintiff will suffer irreparable loss and injury.

Heard learned Counsel for the plaintiffs. Perused the materials on record.

This Court finds that initially trust has been created by way of registered deed of Trust under the name and style of Nathuram Ramkishan Khemka. Subsequently, in terms of the settlement and in terms of the order passed by this Court the suit schedule property was transferred in the name of the plaintiffs' Trust by way of registered Conveyance Deed dated 17th May, 1958. Subsequently, the plaintiffs have appointed the proforma defendants as agent to collect the monthly rent from the tenants over the suit property. Now, the plaintiffs came to know that the defendant No. 1 without any authority has transferred the suit property in the name of the defendant No.

2 and the defendant No. 2 is trying to enter into the premises and trying to collect the rent from tenants of the suit property.

Considering the above, this Court finds that the plaintiffs have made out a prima facie case, balance of convenience and inconvenience in favour of the plaintiffs.

This Court finds that the Conveyance Deed on the basis of which the defendants are claiming their title over the property and trying to enter into the premises and to collect the rent is under challenge in the present suit.

Thus, this Court is of the view that the plaintiffs have made out a prima facie case, balance of convenience and inconvenience in favour of the plaintiffs and at this stage, if an ad-interim order is not granted, the plaintiffs will suffer irreparable loss and injury.

Accordingly, the defendants, their men, servants, agents and assigns are restrained from claiming or exercising any right, title or interest over the suit 'Schedule A' property in any manner whatsoever. The defendants are also restrained from collecting any rent or any other amounts from the suit property and also restrained from entering into any kinds of deeds or things with any third party till 13th February, 2025.

The plaintiffs are directed to immediately serve the copy of the plaint, application and documents to the defendants and to file affidavit of service to that effect on the returnable date.

List this matter on 13th February, 2025.

(KRISHNA RAO, J.)