

4th March, 2021
(D/L 58)
(SKB)

C.O. 531 of 2021
(Via Video Conference)

Smt. Sarbari Mukherjee
Versus
Saradha Realty India Limited

Mr. Rajdeep Bhattacharya,
Ms. Sevanti Roy
... for the petitioner.

This revisional application has been filed challenging the order dated February 20, 2021 passed by the learned Civil Judge (Senior Division), 9th Court, Alipore, South 24 Parganas.

By the order impugned, the learned court below rejected two applications filed by the petitioner, one under Order 1 Rule 10(2) read with Section 151 of the Code of Civil Procedure and the other under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure.

The suit is one for specific performance of contract and permanent injunction against the defendant. The defendant has not yet entered appearance in the suit.

It is the contention of the plaintiff/petitioner that the Enforcement Directorate has issued an eviction notice to the plaintiff/petitioner by which directions have been given to vacate the suit premises within ten days therefrom. It is the contention of the plaintiff/petitioner that as the subject matter of the suit involves the self-same property sought to be attached by the Enforcement

Directorate, the officials of the Enforcement Directorate should be added as parties.

The learned court below considered the said application on merits and held that all parties who are necessary and proper for complete adjudication of the suit may be added in the suit. But the Enforcement Directorate was a stranger in respect of the suit-in-question and a decision in the suit would not bind the Enforcement Directorate nor would a decision in the suit be more effective in the presence of the Enforcement Directorate.

The Enforcement Directorate, as I understand from the submissions made by the learned advocate for the petitioner, has proceeded against the suit property in respect of an investigation held with regard to the Ponzi Scam. The petitioner is one of the parties who had entered into a contract with Saradha Realty India Limited, the opposite party herein. Admittedly, the property belongs to the opposite party, Saradha Realty India limited. The petitioner may have had an agreement with the opposite party and has filed the suit for specific performance of contract. But the Enforcement Directorate has an independent right to proceed against the properties of Saradha Realty India Limited and from the fact that the petitioner is in possession of the property-in-question which will not necessarily mean that the Enforcement Directorate should be added as a party

defendant, specially, because Saradha Realty India limited is not appearing in the suit and it is an indirect manner to stall the investigation by making the Enforcement Directorate bound by the orders passed in the suit.

Thus, I do not find any illegality in the impugned order. The learned court below has elaborately disclosed the reasons as to why the Enforcement Directorate shall not be added as party in this proceeding and the order impugned does not require interference.

With regard to the application for amendment of the plaint, in order to bring on record the subsequent events with regard to the investigation by the Enforcement Directorate, in my opinion, the said amendment is not required for proper adjudication of disputes between the parties. The amendment is not necessary for determination of the real controversy involved in the suit.

Allowing such an amendment would clearly result in binding the Enforcement Directorate with the 'lis' which was between the petitioner and the opposite party, Saradha Realty India Limited. There is no scope for enlarging the purview of the suit by making the same one between the petitioner and the Enforcement Directorate as well. The petitioner was always at liberty to take appropriate steps on the basis of the eviction notice if permitted under the law but the scope of this suit cannot be enlarged in a circuitous manner. Whether there are

any other proceedings with regard to the investigation by the Enforcement Directorate is also not on record.

The revisional application is rejected.

There will be however no order as to costs.

Urgent photostat certified copy of this order be given to the parties on priority basis, if the same is applied for.

(Shampa Sarkar, J.)