

M/s Atlantic Realtors Pvt. Ltd. and others

....Petitioners

VS

Kapil Bhuker and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Udit Chauhan, Advocate
Mr. Sehajbir Singh Aulakh, Advocate and
Mr. Aditya P. Arora, Advocate for the petitioners

SUDHIR MITTAL, J. (Oral)

The petitioners are defendants No. 1 to 3 in a suit for injunction filed by the respondents. Perusal of the plaint shows that it is the case of the plaintiff that he is in physical possession of the suit property since March 2019 in pursuance of an oral agreement to sell with defendant No. 2, who is husband of defendant No. 3 (one of the Directors of defendant No. 1 – Company), son-in-law of defendant No. 4 and brother-in-law of defendants No. 5 and 6. A sum of Rs. 45 lacs was paid to defendant No. 3 vide cheque and RTGS on 12.03.2021 and 19.03.2021. Defendant No. 2 also received an amount of Rs. 50 lacs in cash. A sum of Rs. 26 lacs was paid to DETC on behalf of the defendants. Thereafter, investment was made by installing fittings and fixtures. Necessary permission, sanction and licences were obtained and business was started in the name and style of 'George Kitchen and Brewery'. About 30 employees are working and business is carrying on since July 2019. Despite repeated requests the defendants have not come forward to execute a registered sale deed. Instead, they have started threatening the plaintiff and have tried to enter the premises forcibly. An FIR was got registered yet, the defendants are continuing with their threats and intimidation

through hired muscle men.

After filing of the suit, an application under Order 7 Rule 11 CPC was filed on behalf of the defendants and the same has been dismissed vide order dated 24.05.2021.

It is submitted that a bare perusal of the plaint does not reveal any cause of action. The suit is barred by Section 21 of the Companies Act, 2013. Thus, the trial Court was in error in rejecting the application.

The contents of the plaint have been briefly referred to hereinabove. A perusal of the same reveals that it is the case of the plaintiff that he is in possession of the suit property in pursuance to an oral agreement to sell. Thereafter, he has invested huge sums of money for installation of fittings and fixtures and has employed about 30 persons. He has also taken requisite licences, permit etc. for running restaurant. The defendants are threatening to dis-possess the plaintiff forcibly which has led to the filing of the suit. Bundle of facts requisite for filing a suit for injunction have been mentioned in the plaint and, thus, it is wrong to say that the plaint does not reveal a cause of action.

Section 21 of the Companies Act, 2013 states that a company will function through its authorized persons and through resolutions passed by the Board of the Directors. The said provision, on the face of it, can not be invoked to argue that the suit is barred by law. Thus, this argument also fails.

No other argument has been raised.

For the aforementioned reasons, the revision petition has no merit and is dismissed.

Before parting with the judgment, I have no hesitation in recording that learned counsel for the petitioners has submitted that other points have also been raised and the same may also be mentioned in the order. The said points are

that defendant No. 1 – Company is the owner of the property and it can not be bound by an oral statement made by husband of a Director; oral agreement is not supported by material facts and suit for specific performance should have been filed. I have deliberately not mentioned these points in the order as they are not relevant for decision of the revision petition.

22.09.2021
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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No