

26.02.2024
Item No.21
RP
Ct. No.7

CO 3394 of 2023

Ashar Khurshid
Vs.
Karnani Estate M.K. Private Limited

Md. Farhaduddin
Mr. Rahul Verma
... for the Petitioner

This civil order is at the instance of the plaintiff and is directed against the Order No.3 dated 2nd December, 2023 passed by the learned Additional District Judge, 2nd Court at Sealdha in Misc. Appeal No.53 of 2023. By the impugned order the prayer for ad interim injunction was refused.

Alleging that the petitioner was forcibly evicted/dispossessed from the suit property on 18th January, 2023, this suit under Section 6 of the Specific Relief Act was filed sometime in the month of July 2023. Immediately after filing the said suit, the petitioner applied under Order 39 Rule 1 and 2 of the Civil Procedure Code praying for an order of injunction restraining the opposite parties herein from assigning, transferring and/or parting away of the suit property and not to create any third party interest in the suit property.

The learned trial Judge while rejecting the prayer for ad interim injunction recorded that the plaintiffs do not have any prima facie case. The learned trial Judge further recorded that a civil case is pending against the plaintiffs before the learned Civil Judge, Senior Division, Sealdah and his brother was the original tenant of the suit property. Being aggrieved by the said order the petitioner preferred a miscellaneous appeal and the learned Court of

Appeal below by the impugned order rejected the prayer for ad interim injunction. The learned Court of Appeal below observed that the plaintiffs/petitioners herein do not come within the list of relations mentioned in Section 2(g) of the West Bengal Premises Tenancy Act. The Appeal Court further recorded that the suit for ejectment is pending wherein the plaintiffs have filed an application for substitution.

After taking into consideration the fact that the plaintiff alleges to have been dispossessed on 18th January, 2023 and the suit was filed only on July 2023, and also that both the Courts below have assigned reasons for rejecting the prayer for ad interim injunction, this Court finds that there is no urgency for this Court to pass an ad interim order at this stage. The Court of appeal below is requested to dispose of the Miscellaneous Appeal No.53 of 2023 as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

With the above observation and direction CO 3394 of 2023 is disposed of.

(HIRANMAY BHATTACHARYYA, J.)