

IN THE HIGH COURT AT CALCUTTA  
Civil Appellate Jurisdiction  
ORIGINAL SIDE  
(Commercial Division)

APOT/378/2024  
WITH  
CS-COM/269/2024  
IA NO: GA-COM/1/2024

MIDDLETON TRUCKING SERVICES LLP AND ANR.  
VS  
ROHIT SHROFF AND ANR.

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

AND

The Hon'ble JUSTICE BISWAROOP CHOWDHURY

Date : 11<sup>th</sup> December, 2024.

Appearance:

*Mr. Anirban Ray, Sr. Adv.*

*Mr. Soumabho Ghose, Adv.*

*...for the appellants*

*Mr. Siddhartha Lahiri, Adv.*

*Mr. Ishaan Saha, Adv.*

*Ms. Swati Chowdhury, Adv.*

*...for the defendant no.1*

1. The plaintiff has filed a suit for recovery of a sum of Rs.1,06,51,829/- alleged to have been paid to the defendant for releasing the amount mortgaged to the West Bengal Finance Corporation and to treat the said sum as a consideration amount for a conveyance to be executed by the defendant in favour of the plaintiff. Apparently, the amount has not been repaid for which the suit was filed for recovery of the said amount.

2. The plaintiff claims to be a lessee in respect of the property in question and it is alleged that without conveyance being executed in favour of the plaintiff, they have been illegally dispossessed.
3. We appointed a Special Officer to make an inventory wherefrom it appears that admittedly there are materials belonging to the plaintiff and the plaintiff appears to be in juridical possession over the property in question. The possessory right of the plaintiff on the basis of the report filed by the Special Officer cannot be disputed at this stage.
4. However, the difficulty would be that this Court may not have the jurisdiction to decide the said claim for recovery of possession based on such possessory right because of lack of territorial jurisdiction. The suit for possession in this Court could be a suit for land and hence not entertainable by this Court.
5. On this ground, we are not inclined to pass any interim order.
6. This order shall not prevent the appellant to take appropriate steps in accordance with law before the appropriate forum.
7. The appeal and the application stand disposed of with the aforesaid observation.
8. The Special Officer shall be paid a further remuneration of 1000 GMs by the plaintiff and shall stand discharged.

9. All costs, charges and expenses incurred in this proceeding may be added to the claim of the plaintiff in the event the plaintiff succeeds in the suit.
10. The observations made above are limited to the issues involved in this appeal and it is needless to mention that the appropriate Court, if approached, shall decide the matter uninfluenced by any observation made in this order.
11. The report filed by the Special Officer is taken on record.

(SOUMEN SEN, J.)

(BISWAROOP CHOWDHURY, J.)