

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

Before:

The Hon'ble Justice Hiranmay Bhattacharyya

**C.O. 1561 of 2023
Moni Manjusha Nandy
VS.**

**The State of West Bengal & Ors.
With**

**C.O. 1574 of 2023
Radha Nath Nandy
Vs.**

The State of West Bengal & Ors.

For the Petitioners : Mr. Radha Nath Nandy
..... (in person)

For the Opposite Party
Nos. 2 to 5 : Mr. Abdul Masood
Ms. Debanwita Pramanik
Mr. Md. Sajid Hussain
Mr. Sayan Roy
Mr. Simon Arora
..... advocates

Reserved on : 01.08.2025

Judgment on : 01.09.2025

Hiranmay Bhattacharyya, J.:-

1. CO No. 1574 of 2023 is at the instance of Radha Nath Nandy i.e., the plaintiff and is directed against the judgment and order dated February 15, 2023 passed by the learned Additional District Judge VIIth Court at Alipore in Misc. Appeal No. 234 of 2012 arising out of an order dated 04.05.2012 passed in Title Suit No. 153 of 2012 refusing to pass an ad interim order of injunction.
2. CO No. 1561 of 2023 is at the instance of Moni Manjusha Nandy i.e., plaintiff and wife of Radha Nath Nandy and is directed against a judgment and order dated February 15, 2023 passed by the learned Additional District

Judge VIIth Court at Alipore in Misc. Appeal no. 235 of 2012 arising out of the order dated 04.05.2012 passed in Title Suit No. 154 of 2012 refusing to pass an ad interim order of injunction.

3. Since common questions of law and fact are involved in the aforesaid Civil Revision Applications the same were heard analogously and are being decided by this common order.
4. Facts leading to the filing of the aforesaid civil revision application are identical. For the sake of convenience, the facts of the case of the respective parties in CO No. 1561 of 2023 is stated hereinafter in a nut shell.
5. The petitioner herein filed a suit being Title Suit No. 154 of 2012 praying for a decree for declaration that the defendants have no right, title and interest to continue in possession in any part of the property, decree of declaration that the defendants have no right to create any third party interest in respect of any part or portion of the suit property, decree for recovery of possession of the suit property, mandatory injunction for demolishing and removal of the structure/building being part of the project namely "Eden Exotica" from the suit property and for permanent injunction restraining the defendant/ opposite parties from selling, transferring, alienating, encumbering and creating any third party interest and/or from encumbering the suit property.
6. It is the specific case of the petitioner that the petitioner became the sole and absolute owner of the property by virtue of a registered deed of the conveyance dated April 15, 1996 and the name of the petitioner was mutated in the records of the Corporation. It is the further, case of the petitioner that the petitioner was in possession of the same by encircling the property by a brick built boundary wall. The petitioner alleges that it came to the notice of the petitioner that the defendants/opposite parties illegally and in an unauthorized manner raised a multi-storeyed building on the scheduled land after demolishing the brick built boundary wall along with other adjacent land under the name "Eden Exotica". Petitioner claims to have lodged a complaint with the local police station. The petitioner states that the opposite parties did not pay any heed to the objection raised by the petitioner against illegal encroachment.
7. In the said suit, the petitioners filed an application under Order 39 Rule 1 and 2 read with Section 151 of the Code of Civil Procedure inter alia praying for temporary injunction. The petitioners moved the prayer for ad interim injunction. The learned Trial Judge, by an order dated May 4, 2012, rejected the prayer for ad interim injunction upon observing that the petitioner has

failed to establish the prima facie case and there is no such urgency to pass any ad interim order of injunction.

8. Being aggrieved, by such order the petitioners preferred separate appeals being Misc. Appeal nos. 234 and 235 of 2012. The learned District Judge, by an order being no. 2 dated May 10, 2012, allowed the prayer for ad interim injunction by directing opposite parties to maintain status quo in respect of the nature and character of the suit property as well as title and possession of the same till the next date. The Misc. Appeals thereafter came up for final hearing and the same stood dismissed by the impugned judgment and order.
9. Being aggrieved by such order the plaintiffs have approached this Court by filing these applications under Article 227 of the Constitution of India.
10. The petitioner, appearing in person, submits that the defendants/opposite parties in violation of the order of injunction transferred the suit property in favour of third parties. He further submits that the opposite parties forcibly made construction on the property of the petitioner for which several complaints were lodged with the local police station. FIR was registered and after completion of investigation, charge sheet has been laid. He further submits that the petitioner was forced to transfer the suit property in favour of the opposite parties herein by executing registered deeds of conveyance. The petitioner submits that where an act is done in violation of an order of injunction it is the duty of the Court to set the wrong right and not allow the perpetuation of the wrong doing. In support of such contention he placed reliance upon the decision of the Hon'ble High Court of Madras in the case of **Century Flour Mills Ltd. vs. S. Suppiah And Ors.** reported at **AIR (1975) Mad 270** and the decision of the Hon'ble Division Bench of this Court in the case of **Sujit Pal vs. Prabir Kumar Sun and Others** reported at **AIR 1986 Cal 220**.
11. The learned advocate appearing for the opposite party submits that the petitioner has transferred the suit property to the opposite parties by executing deeds of conveyance upon accepting the valuable consideration. He further submits that the two original registered sale deed and one certified copy of the deeds which was seized by the police authorities was later taken back by the petitioner from the custody of the learned Trial Judge by executing Jimmanama. He submits that the petitioners herein have lost all right, title and interest in respect of the suit property after executing the registered deed of conveyance and, therefore, do not have any manner of title and possession in respect of the suit property. He, therefore,

submitted that the learned judge of the appellate court was right in dismissing the Misc. Appeals.

12. Heard the petitioner in person and the learned advocate for the opposite party.
13. In the plaint the petitioners have alleged that the opposite parties illegally and in an unauthorized manner started raising a multi-storeyed building on the property of the petitioner by demolishing the brick built boundary wall along with other adjacent land under the name "Eden Erotica". The petitioners have also alleged that the opposite parties have sold and transferred portions of the suit property in favour of third parties in violation of the order of injunction.
14. The petitioners herein have sold and transferred the suit property in favour of M/s. Nortech Property Private Limited by virtue of registered deeds of conveyance for valuable consideration. The opposite parties are the directors of M/s. Nortech Property Private Limited.
15. It is not in dispute that the petitioners filed writ petition before this Hon'ble Court challenging the sanction of the building plan in respect of the premises in question and the said writ petition was disposed of by an order dated March 12, 2018 with an observation that since the petitioners are no longer the owners of the immovable property concerned it would not be prudent to look into the grievances of the sanction of the building plan in respect of the premises in question.
16. Admittedly the suit property has been transferred by the petitioner in favour of M/s. Nortech property Private Limited by virtue of registered deeds of conveyance. Petitioners have thus failed to make out a prima facie case to go for trial. The petitioner failed to produce any document to show that they are in possession in respect of the suit property. It is also not in dispute that the petitioners have handed over the original registered sale deeds and the certified copy of the sale deed to the opposite parties which they received from the custody of the Court by furnishing Jimmanama.
17. After going through the materials on record this Court is of the considered view that the learned Additional District Judge, VIIth Court at Alipore was right in dismissing the Misc. Appeals thereby affirming the orders passed by the learned Trial Judge refusing the prayer for ad interim injunction.
18. There is no quarrel to the proposition of law laid down in **Century Flour Mills Ltd. (supra)** that if an act is done in violation of an order of injunction, it is the duty of the Court to set the wrong right and not allow the perpetuation of the wrong doing. There is also no quarrel to the proposition

of law laid down in **Sujit Pal (supra)** that the inherent power of the Court under Section 151 of the Code of Civil Procedure can be exercised to prevent abuse of the process of the Court and to do justice by immediately intervening under the situation which requires such intervention by the Court. It is thus, well settled that the Court has a duty to set the wrong the right and should not allow the perpetuation of a wrong doing. The said decisions cannot come to the aid of the petitioner in the case on hand as the issue involved in the Civil Revision Applications is whether the learned Judge of the Appellate Court was justified in not passing an order of injunction in favour of the petitioners. It is well settled that unless three legal tests namely prima facie case to go for trial, balance of conveyance and non-conveyance and irreparable loss and injury are satisfied and held to be in favour of the plaintiff, an order of injunction would not follow.

19. In the case on hand, petitioners have failed to satisfy the legal tests for grant of injunction.
20. The petitioner referred to the decision of the Hon'ble Supreme Court in the case of **Jehal Tanti & Ors. vs. Nageshwar Singh (D) Thr. Lrs** reported at **(2013) 14 SCC 689** and a judgment of the Hon'ble Delhi High Court in the case of **Sonu Bhati & Anr. vs. Archana Jain & Ors.** dated 13.01.2025, **LPA 23 of 2025** and **CM No. 1630 of 2025** wherein it has been held that the sale deeds executed in violation of the order of injunction passed by the Court is null and void. There is no quarrel to the aforesaid proposition of law. However, the said decisions are distinguishable on facts as in the case on hand the petitioners have transferred their right, title, interest and possession in respect of the suit property in favour of the defendants/opposite parties herein.
21. For all the aforesaid reasons this Court holds that the judgments and orders impugned do not suffer from any infirmity warranting interference under Article 227 of the Constitution of India. With the above observation CO 1561 of 2023 and CO 1574 of 2023 stand disposed of. There shall be, however, no order as to costs.
22. Urgent photostat certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

(HIRANMAY BHATTACHARYYA, J.)