

05.08.2025
Item No. 4.
Court No.37.
AB
(Bench ID 266311)

F.M.A.T. 296 of 2025
With
CAN 1 of 2025

Hanif Chhutani
Vs
Antony Joseph Liu @ Tony

Mr. Anuj Singh,
Mr. Bishajib Ghosh,
Mr. S. Dasgupta,
Mr. Abhishek Agarwalfor the Appellant.

Mr. Shamit Sanyal,
Ms. Shabana Nazninfor the Respondent.

Dictated by Arijit Banerjee, J.

1. This appeal is directed against an order dated July 15, 2025, passed by the learned Judge, Bench-V, City Civil Court at Calcutta, in Title Suit No.2027 of 2023, whereby the appellant's application for injunction under Order 39 Rules 1 and 2 of the Code of Civil Procedure was dismissed on contest and the interim protection that had been earlier granted, stood withdrawn.
2. The appellant carries on business in a shop room on Ripon Street, Kolkata. He filed the instant suit alleging that the defendant, his neighbouring shop owner, had entered into an oral agreement to hand over his shop room to the plaintiff at and for a consideration of Rs.40 Lac. The plaintiff says that he has paid Rs.10 Lac to the defendant. The defendant is refusing to hand over the shop room and is trying to

induct other parties therein. With such allegation, the appellant filed the suit and applied for injunction to restrain the defendant/respondent from acting in breach of the oral agreement with the plaintiff and maintain status quo as regards the suit property.

3. It appears that initially an order dated October 5, 2023, was passed by the learned Trial Court whereby the parties were directed to maintain status quo as regards the nature, character and possession of the suit property. Such order was extended from time to time. Finally, by the order impugned herein, the appellant's injunction application was dismissed and the status quo order was vacated. Hence, this appeal at the instance of the plaintiff.
4. The defendant categorically says that he has absolutely no connection with the suit property. He never had nor now has any right, title or interest in respect of the suit property.
5. We have heard learned Counsel for the parties. We see that the learned Trial Court noted that it is not disputed that it is not the defendant but the sister of the defendant being one Mary Liu who was the tenant in respect of the suit property who had apparently surrendered her tenancy to the owner of the suit property on

June 11, 2023. Therefore, the defendant had no right, title or interest in respect of the suit property. Noting that the plaintiff had failed to make out any prima facie case in support of his claim, the learned Trial Court dismissed the injunction application.

6. We see no apparent infirmity in the order impugned. If it is an admitted position that not the defendant but his sister was the tenant, the plaintiff cannot enforce any alleged oral agreement against the defendant who would have no right, title and interest in respect of the suit property.
7. However, Mr. Singh, learned Senior Counsel representing the appellant/plaintiff says that there was no admission on the part of the plaintiff that the defendant's sister and not the defendant was a tenant of the suit property. It has been wrongly recorded that there is no dispute that Mary Liu was a tenant and not the defendant. We are afraid we have to proceed on the basis of what is recorded in the order of the learned Trial Court. If there is any erroneous recording, the appellant would be at liberty to approach the learned Trial Court with an appropriate application.
8. The appeal and the connected application, accordingly, stand disposed of.

9. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Om Narayan Rai , J.)

(Arijit Banerjee, J.)