

23.06.2025
Item No.27
Ct. No. 30
Aloke

CO 4067 of 2024

Ranajit Kumar Pal
Vs.
Sabyasachi Chakraborty & Ors.

Mr. Debdutta Raha
... for the petitioner

Mr. Tirthankar Das
Mr. Sayan Ganguly
Ms. Shreya Naskar
... for the opposite parties

1. The present revisional application has been preferred challenging the order dated 8th November, 2024 passed by the learned Civil Judge (Junior Division), 1st Court at Alipore in Title Suit No. 168 of 2014.
2. Vide the said order under challenge the trial Court rejected the petitioner/plaintiff's prayer under Order 1 Rule 10(2) of the CPC wherein the petitioner/plaintiff intended to add the land owner and the developer as a party.
3. Admittedly, the petitioner is in possession of the suit property by virtue of an agreement for sale and permission granted by the Kolkata Improvement Trust.
4. The title suit has been filed being a suit for injunction, simpliciter to restrain the defendants/opposite parties herein from disturbing the peaceful possession of the petitioner.

5. Learned counsel appearing for the opposite parties/defendants submits that they are not causing any disturbance to the plaintiff/petitioner herein neither in respect of garage nor in respect of any common space as alleged by the petitioner. It is further stated that the person sought to be made parties are not necessary for proper adjudication of the suit.

6. Admittedly, the petitioner is in possession of the suit property on the basis of an agreement for sale but no deed of assignment has been created in his favour till date.

7. It is submitted that another suit praying for specific performance of contract against the developer has been initiated which is pending adjudication wherein execution of the deed of assignment has been prayed for.

8. Considering that the order under challenge is in a suit for injunction, simpliciter, an order of injunction, if found necessary could be passed by the trial Court. The addition of the land owner and the developer will in no way help in adjudication of the suit for injunction as the suit has been filed against the opposite parties who are allegedly causing disturbance.

9. In view of the fact that the plaintiff/petitioner's possession in the suit property is admitted by the defendants and the

defendants/opposite parties herein are co-owners of the property being owners of other flats in the suit property and as the opposite parties have not denied the possession of the petitioner in the suit property the presence of the land owner and the developer is not necessary to decide a suit for injunction against the opposite parties for allegedly causing disturbance to the petitioner's possession and use of common space.

10. The trial court rightly decided the issue and this Court finds no reason to interfere with the order under challenge.

11. The revisional application thus stands dismissed.

12. The trial Court is directed to decide the suit expeditiously preferably within a period of three months from the date of this order.

13. Connected application, if any, stands disposed of.

14. Interim order, if any, stands vacated.

15. Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Dutt (Paul), J.)