

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APO/2/2025
WITH
CS/204/2024
IA NO: GA/2/2025

CAMAC AGENCY PVT. LTD.
VS
HUSNA BANO ALIAS HUSN BANU AND ORS.

WITH

APO/3/2025

CAMAC AGENCY PVT. LTD.
VS
HUSNA BANO ALIAS HUSN BANU AND ORS.

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
AND
The Hon'ble JUSTICE OM NARAYAN RAI
Date : 30th July, 2025.

Appearance:

Mr. Abhrajit Mitra, Sr. Adv.
Mr. Sarvapriya Mukherjee, Adv.
Mr. Arif Ali, Adv.
Mr. Arnab Sardar, Adv.
...for the appellant

Mr. Krishna Raj Thaker, Sr. Adv.
Ms. Susrea Mitra, Adv.
Mr. Yash Vardhan Deora, Adv.
...for respondent no.1

Mr. Anindya Kr. Mitra, Sr. Adv.
Mr. Soumya Roy Chowdhury, Adv.
Mr. Ishaan Saha, Adv.
Mr. Deepak Kripalani, Adv.
...for defendant nos. 2 and 3

Dictated by Arijit Banerjee, J.

The Court: By consent of the parties, the two appeals and the connected applications are taken up together for hearing.

The appellant has filed CS/204/2024 in this Court against the respondents herein claiming the following reliefs:-

“a) Declaration that the deed of Sale dated 28th June, 2024 being Annexure “I” thereto is illegal, null and void;

b) Mandatory injunction directing the defendant No.1 to execute a conveyance in respect of the entirety of the said property morefully described in the Schedule being Annexure “C” hereto in favour of the plaintiff for the same consideration as that stated in the Deed of Sale dated 28th June, 2024 being Annexure “I” thereto;

c) Alternatively, mandatory injunction directing the defendant Nos.2 and 3 to execute Deed of Conveyance transferring the said property morefully described in the Schedule being Annexure “C” hereto to the plaintiff for the same consideration as that stated in the Deed of Sale dated 28th June, 2024, being Annexure “I” hereto and the defendant No.1 may, if necessary, be directed to join as confirming party;

d) Perpetual injunction restraining the defendants, their men, agents and assigns from in any manner dealing with, disposing of, transferring or creating third party right in respect of the said property more fully described in the Schedule being Annexure “C” hereto or any part or portion thereof or changing the nature and character thereof;

e) Perpetual injunction restraining the defendants, their men, agents and assigns from taking any step or further step or in any manner dealing with, disposing of or claiming any right in respect of any part or portion of the said property more fully described in the Schedule being Annexure “C” hereto on the basis of the purported deed of Sale dated 28th June, 2024 or at all.”

In short, the case of the plaintiff is that it has a right of pre-emption in respect of a property being No.1, Victoria Terrace, Kolkata-17. However, in breach of such right, the defendant no.1 being the erstwhile owner of the property, has sold the property to the defendant nos. 2 and 3 by way of a Deed of Sale dated June 28, 2024. The plaintiff has challenged such deed of sale. The plaintiff applied for interim relief. At the ad-interim stage, such relief was granted ex parte.

The defendant no.1 applied for vacating of the interim order.

The Learned Single Judge allowed the vacating application. The interim order stood vacated. The Learned Single Judge directed exchange of affidavits on the plaintiff's interlocutory application being GA/1/2024.

Being aggrieved, the plaintiff has come up by way of these two appeals.

We have heard the learned Counsel for the parties.

We are told that affidavits have been exchanged in connection with the plaintiff's interlocutory application pending before the Learned Single Judge. We are not inclined to interfere with the order under appeal. In our view, the plaintiff's interlocutory application should be heard out before the Learned Single Judge. The applications taken out by the defendant no.1 and defendant nos. 2 and 3 under Order VII Rule 11 of the Code of Civil Procedure should also be heard out by the Learned Single Judge. Which application the Learned Judge will hear out first is for His Lordship to decide.

We see that at the time of admission of the appeal, a Co-ordinate Bench, while declining stay of operation of the impugned order, directed that

transfer of the concerned property shall abide by the result of the appeal and the intending transferee should be informed about the pendency of the appeal. Since we are disposing of the two appeals, we direct that any transfer of the concerned property during the pendency of the plaintiff's interlocutory application shall abide by the result of that application and the intending transferee should be informed of the pendency of the suit and the application.

Learned Senior Counsel representing the appellant/plaintiff submits that some precedence be given to this matter by the Learned Single Judge.

The plaintiff will be at liberty to make such prayer before the Learned Single Judge who may consider such prayer according to the convenience of the Court.

The appeals and the connected applications stand disposed of.

(ARIJIT BANERJEE, J.)

(OM NARAYAN RAI, J.)