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**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
AN APPEAL FROM AN ORDER PASSED IN ITS
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE**

**APO/15/2024
WITH CS/84/2023
IA NO: GA/3/2025**

**URMILA AGARWAL AND ANR
-VS-
PAWAN PROPERTIES AND ORS**

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK

-AND-

The Hon'ble JUSTICE MD. SHABBAR RASHIDI

For the Appellants	:	Mr. Rajarshi Dutta, Adv. Mr. V.V.V. Sastry, Adv. Mr. Debargha Basu, Adv. Ms. Khushi Gupta, Adv.
For the Respondent No. 1	:	Mr. Soumya Ray Chowdhury, Adv. Mr. Sanjay Ginodia, Adv. Mr. Manoj Kumar Tiwari, Adv. Ms. Susrea Mitra, Adv. Ms. Rajeshwari Prasad, Adv.
For the Respondent No. 2	:	Mr. Shounak Mukhopadhyay, Adv. Mr. Paritosh Sinha, Adv. Mr. K. K. Pandey, Adv. Ms. Mallika Bothra, Adv.
HEARD ON	:	22.12.2025
DELIVERED ON	:	22.12.2025

DEBANGSU BASAK, J.:-

1. Appeal is at the behest of the plaintiff and directed against an order dated September 18, 2023 passed in IA No. GA/1/2023 in CS/84/2023.
2. By the impugned order, learned Single Judge granted ad interim protection to the plaintiff in respect of the suit property.
3. Learned advocate appearing for the appellant submits that, there was a development agreement entered into between the parties on October 13, 1982. Disputes and differences arose in respect of such development agreement. A suit was filed. Plaintiff was a party to such suit. Terms of settlement dated March 18, 2011 was entered into in such suit. Consent decree was passed on March 23, 2011.
4. Learned advocate appearing for the appellant submits that, in terms of the consent decree, appellant is entitled to 1050 square feet super built up area in a commercial building to be erected by the defendant. In addition thereto, the appellant is also entitled to specific amount of money.
5. Learned advocate appearing for the appellant submits that, a sanction plan of the building was obtained on July 23, 2022. Appellant was not aware of the sanction plan. Appellant became aware of such sanction plan subsequently. It is then, the appellant filed the present suit.

6. Learned advocate appearing for the appellant draws the attention of the Court to the various clauses of the Terms of Settlement and the consent decree. He submits that, the defendant herein acted in breach of such terms and conditions.
7. Learned advocate appearing for the appellant submits that, appellant is entitled to protection in terms of the prayer made in the interlocutory application. Learned Single Judge erred in not granting such protection.
8. Learned advocate appearing for the defendant draws the attention of the Court to the prayer made in the plaint and in particular prayer (h) therein. He submits that, the plaintiff sought alternative relief of damages. In such view, the plaintiff need not be protected by any order of injunction. In support of such contention, he relies upon **(2012) 6 SCC 792 (Best Sellers Retail (India) Private Limited –Vs- Aditya Birla Nuvo Limited And Others.**
9. Learned advocate appearing for the defendant submits that, a vital clause, in fact, a vital page of the Terms of Settlement is omitted in the paper book filed by the appellant. He refers to clause 15 of the Terms of Settlement which stands omitted in the paper book filed in the present appeal.
10. Learned advocate appearing for the defendant submits that, the entire endeavour of the plaintiff is to extract money from the defendant. He refers to the valuation of the property concerned

since, the plaintiff is seeking rake up issue of valuation. He refers, a deed of gift presented for registration. He also refers to an order dated August 17, 2023 passed in the injunction petition which is under consideration. According to him, the valuation cannot be in dispute.

- 11.** Learned advocate appearing for the respondent submits that, it was the plaintiff who acted in breach of the Terms of Settlement and the consent decree passed therein required an execution petition to be filed and a Special Officer to be appointed in such execution petition to execute the deed of conveyance. According to him, no interim relief should be granted to the plaintiff.
- 12.** The appeal, as noted above, is from an ad interim injunction passed in the injunction petition. The injunction petition is yet to be finally decided.
- 13.** According to the plaintiff, the building itself is not a commercial building and at least a portion at which the allocation was proposed to be made by the respondent, in the sanction plan, cannot be construed to be a commercial area.
- 14.** In such circumstances, since, the case of the plaintiff is that, the building itself is not a commercial building, the question as to whether or not, the plaintiff in such circumstances be entitled to interim protection, as granted by the ad interim order of injunction, is debatable.

- 15.** There are various aspects in the injunction petition which require consideration on final hearing. Again, as noted above, the interim order passed is ad interim in nature.
- 16.** Any decision on the rival contentions of the parties before us is likely to affect the parties at the final hearing of the injunction petition.
- 17.** In such circumstances, we refrain from pronouncing on the merits of the rival contentions of the parties. We keep all points raised by the parties open to be decided finally by the learned Interlocutory Court.
- 18.** APO/15/2024 along with connected applications are disposed of without any order as to costs.

(DEBANGSU BASAK, J.)

- 19.** I agree.

(MD. SHABBAR RASHIDI, J.)