

Title Suit No. 2211 of 2023

**Present:- Smt. Sutanuka Nag, Judge, Bench-XIII, City Civil Court,
Calcutta (Code- WB01248)**

Order No. 02// Dated-18.10.2023

Ld. Advocate on behalf of the Plaintiff/Petitioner moves an application under Order 39 Rule 1 & 2 read with Section 151 of the C.P.C praying for an order of temporary injunction together with ad-interim order of injunction restraining the Defendants/Opposite Parties and each of the Defendants/Opposite Parties not to make any illegal construction of building over and in respect of premises described in Schedule "A" without the valid sanction plan issued by KMC after 20.02.2023.

From the office report it appears that, no caveat has been filed till date.

It is submitted by Ld. Advocate for the Plaintiff/Petitioner that the Plaintiff/Petitioner is a tenant under the Landlord i.e. the Defendant/Opposite Party No. 5 in respect of one room lying and situated at the northern side being at the back portion in the ground floor of Premises No. 28B, Suri Lane, P.S. Muchipara, Ward No. 50, Kolkata-700 014 and rent receipts were issued in favour of the Plaintiff/Petitioner earlier and due to non-acceptance of rent by the Defendant/Opposite Party No. 5 the Plaintiff/Petitioner has been depositing rent with the appropriate authority and from the month of March, 2017 the Defendants/Opposite Parties No. 5, 6, 7 in collusion and in conspiracy with each other inducted some anti-socials, labourers for demolition of the entire the then old building over the subject premises and to illegally demolish the said building and the Defendants/Opposite Parties No. 5 also left the first floor of the said premises having old construction for demolition of the then building desperately where he was residing with his family members and with all its belongings and handed over possession and occupation of the Defendants/Opposite Parties No. 5 to the Defendants/Opposite Parties Nos. 6 & 7 for illegal demolition and before that demolition with an illegal intention to evict the Plaintiff/Petitioner from his lawful occupation and the Plaintiff/Petitioner lodged a complaint on 20.09.2017 to the D.G. Building, Kolkata Municipal Corporation and after lodging the petition under Section 144(2) of Cr.P.C. on 22.09.2017 and the Plaintiff/Petitioner filed T.S. being No. 494 of 2018 before the City Civil Court, Calcutta and the Ld. Court was pleased to pass an order on 30.01.2019 restraining the Defendants/Opposite Parties No. 5, 6 & 7 from changing the nature and character of the suit premises and thereafter the Defendants/Opposite

Parties No. 5 being aggrieved and dissatisfied with the Order dated 30.01.2019 the Defendants/Opposite Parties No. 5 preferred an appeal before the Hon'ble High Court at Calcutta and the Hon'ble Court was pleased to pass an order directing that the Plaintiff/Petitioner will not be disturbed from being evicted from the portion under occupation and also ordered that the Municipal Commissioner shall not be debarred from proceeding under Section 411 of the Kolkata Municipal Corporation Act, 1980. It has further submitted that the after passing the Order of the Hon'ble High Court, Calcutta, the Defendant/Opposite Party No. 5 became extremely desperate and without any consent of the Plaintiff/Petitioner moved the Kolkata Municipal Corporation from time to time for wrongful favour from KMC. It is further submitted that the Defendants/Opposite Parties No. 5 obtained an Order dated 20.02.2023 from the KMC purportedly passed under Section 412A of KMC Act, 1980 but he is not presently proceeding and in spite of the Order dated 20.02.2023 obtained under Section 412A of the KMC Act, 1980. The Plaintiff/Petitioner has not submitted any building plan before the Kolkata Municipal Corporation authority although it is legally compulsory and a Notice has been given by the Plaintiff/Petitioner upon all the Defendants/Opposite Parties on 17.08.2023 giving them 60 days time for the purpose of demolition of the wrongful building at 28B, Suri Lane, Kolkata-700 014 and for renovation of the illegal sanctioned building plan allegedly dated 28.10.2022 as sought to be the version of the Defendant/Opposite Party No. 5 and as granted allegedly in respect of Premises No. 28B, Suri Lane, P.S. Muchipara, Ward No. 50, Kolkata-700 014 and revoke all the exercise of power being made by the landlord Defendants/Opposite Parties No. 5 in the subject premises and to stop the landlord from making any illegal and unauthorized constructional activities at the subject premises and in no event such alleged sanction plan No. 2022050030 dated 28.10.2022 is lawfully permissible and order dated 20.02.2023 having been allegedly passed by KMC as aforesaid and the KMC authorities are in wrongful link with Defendants/Opposite Parties No. 5, 6, 7 and in spite of the Order having been passed under 412A of the KMC Act, 1980 they are allowing illegal building to be constructed by the Defendants/Opposite Parties No. 5, 6, 7 and it is an admitted fact that as of today, there is no lawful building sanctioned plan in favour of Defendants/Opposite Parties No. 5 in respect of the said premises for construction of building at the subject premises particularly when the Order has been passed on 20.02.2023 by the Kolkata Municipal Corporation under Section 412A and it has further been

submitted that the Plaintiff/Petitioner challenged the Order passed by the Kolkata Municipal Corporation under Section 412A of the KMC, Act in a Writ Petition vide W.P. No. 10234 of 2023 and the same is pending before the Hon'ble High Court at Calcutta.

Having heard Ld. Advocate for the Plaintiff and taking into account the documents furnished by the Plaintiff and also finding urgency in the matter, this Court hereby directs both the parties to maintain Status quo until further order

Hence, it is

ORDERED

that both the parties of this case are hereby directed to maintain Status quo until further order and further directing the Defendants/Opposite Parties and each of the Defendants/Opposite Parties not to make any illegal construction of building over and in respect of premises described in Schedule "A" without the valid sanction plan issued by KMC after 20.02.2023.

Issue notice upon both the Defendants directing them to show-cause within 01 (One) month [due to ensuing Puja Vacation, 2023] as to why an order of temporary injunction shall not be recorded against them in terms of the prayer so made by the Plaintiff/Petitioner.

Plaintiff/Petitioner is hereby directed to comply with the provisions of Order 39 Rule 3(a) & 3(b) at once and file affidavit of compliance.

Fix **11.12.2023** for S.R. and A.D. and appearance.

Requisites at once.

Dictated & Corrected by me.

Sd/- Sutanuka Nag
Judge, Bench-XIII
City Civil Court, Calcutta

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