

Vs. Md. Iqbal Khan and ors.Defendants/

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Court : Kolkata

Decided On : Jan-27-2014

Judge : I. P. Mukerji

Respondent : Md. Iqbal Khan and ors.Defendants/

Judgement :

ORDER

SHEET G.A.No.2972 of 2013 With C.S.No.348 of 2013 IN THE HIGH COURT AT CALCUTTA Ordinary Original Civil Jurisdiction ORIGINAL SIDE M/S.ASHUTOSH ROY PRAFULLA KUMAR ROY & ORS.Versus Md.IQBAL KHAN & ORS.Plaintiffs/Petitioners Defendants/Respondents BEFORE: The Hon'ble JUSTICE I.P.MUKERJ.Date : 27th January, 2014.

For Plaintiffs/Petitioners : Mr.Malay Kr.

Ghosh with Mr.Soumen Datta & Mr.Satrajit Chatterjee, Adversus For Defendants/Respondents : Mr.Asim Kr.

Mukherjee, Adv.The case of the plaintiffs against the defendants is that they (defendants) were appointed as caretakers for two godowns at 10, Portuguese Church Street, Kolkata.

These godowns measure 900 and 800 sq.ft.

respectively.

This contract of employment was terminated by the plaintiffs by their letter dated 20th December, 2011, but the defendants are wrongfully in possession of these two godowns and making profitable use thereof.

According to the plaintiffs the current rental value is Rs.10/- per sq.ft.

per diem which is about Rs.5,00,000/- per month for these two godowns.

On 26th September, 2013, Patherya, J.

had appointed a Receiver to make inventory of the two godowns being 7D and 7E.

According to the defendants they are entitled to be in possession of the said godowns.

In spite of directions no affidavit in opposition was filed by the defendants.

No documents are on record to show their entitlement to such possession.

There is no dispute that the defendants had entered into the two godowns as caretakers but now they claim rights adverse to that of the plaintiffs.

Therefore, on the above case, the plaintiffs right of possession is prima facie established.

In those circumstances, I pass the following orders :a) The Receiver appointed by the order dated 26th September, 2013, will take actual possession of the two godowns subject to the possession of the defendants.

The defendants will be allowed to occupy those two godowns and to do business thereat, as they are doing now, under the Receiver.

b) In the special facts and circumstances of this case, the defendants will jointly and/or severally deposit a sum of Rs.50,000/per month with the Receiver as occupation charges without prejudice to the rights and contentions of the parties.

The Receiver will invest the same after every two months in a term deposit with State Bank of India, High Court Branch, Kolkata, earning the highest rate of interest.

c) The occupation charges will be paid from 1st January, 2012.

The current charges have to be paid by the 7th of each succeeding month.

The occupation charges for January has to be paid by the 7th of February.

d) The arrear occupation charges may be paid in three equal instalments by 31st March, 2014, 30th June, 2014 and 30th September, 2014.

e) In default, the plaintiffs will have liberty to apply for an appropriate order.

The application [G.A.No.2972 of 2013].is disposed of by this order.

All parties concerned are to act on a signed photocopy of this order on the usual undertakings.

(I.P.MUKERJI, J.) K.

Banerjee A.R.[C.R.].

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