

DISTRICT- SONITPUR

IN THE COURT OF MUNSIF NO. 1, SONITPUR, TEZPUR

PRESENT : Triza P M Baruah

Case No. Misc (J) 35 of 2020
(in connection with TS no. 34 of 2020)

Versus

SI No. of Orders	Date	Order	Signature
	22/07/20	<p>Court work is functional as per staggered roster in view of the current COVID -19 pandemic.</p> <p>The instant Misc(J) Case arises out of Petition no. 843/2020 dated 22/07/2020 praying for ad-interim temporary injunction Under Order XXXIX rule 1 & 2 read with section 151 of the Code of Civil Procedure.</p> <p>Petitioner is represented.</p> <p>Heard the Ld. Counsel for the petitioner.</p> <p>On perusal of the case record it is seen that Misc(J) Case no. 29/2020 has been filed on 13/07/2020 by the petitioner seeking temporary injunction against the opposite party stating that the opposite party be restrained from handing over possession of the suit premises to a third party. As per the petitioner, the suit premises were taken on rent from the opposite party as landlord for conducting business in the name of M/s Auto Wheels later known as Ragini Enterprise. Petitioner, has further claimed that he has been dispossessed of the suit premises without any notice. In the said case, after hearing the submissions of the Ld. Counsel and on perusal of the case record, Court had deemed fit to issue show cause notice to the opposite party as to why temporary injunction should not be granted in favour of the petitioner.</p> <p>Now, vide petition no. 843/2020, petitioner has filed another case i.e. Misc(J) Case no. 35/2020 citing change in circumstances that the opposite party has put a board on the shutter schedule premises indicating that the said premises would be handed over for possession to a certain "Royal Grocery". Beyond the phone number of "Royal Grocery", petitioner has not submitted any other detail or address of "Royal Grocery".</p> <p>Petitioner has also submitted case laws and the same has been tagged with the case record.</p>	

In Arjun Singh Vs Mahindra Kumar & Ors, AIR 1964 SC 993, it was observed that interlocutory orders are capable of being altered or varied by subsequent application for the same relief, though normally only on proof of new facts or new situations which subsequently emerged.

In light of the above discussion and the cited case law, it can be reached upon that in order to allow a second application for a relief that has already been sought in Court, there has to be subsequent change in circumstance.

In the instant case, the relief prayed for is similar to the one prayed for in Misc(J) Case no. 29/2020. In both cases, petitioner has prayed for restraining the opposite party from granting possession of the schedule premises to a third party.

The only difference is that in the instant case, petitioner has named one "Royal Grocery" as the third party on the ground that the opposite party has put a board by the name of "Royal Grocery" on the shutter of the schedule premises. It is to be noted that "Royal Grocery" has not been made a party to the case. The above can not be considered to be a change in circumstance as there is no change in the nature of the relief claim in both the Misc(J) Cases.

Hence, in order to prevent multiplicity of cases, the instant Misc(J) Case is dismissed.