

08.09.2020

Sl.No. 06

Ct.No. 08

Amalranjan

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

FMAT No. 359 of 2020

With

CAN 5359 of 2020

With

CAN 5360 of 2020

With

CAN 5361 of 2020

Girdhari Estates Private Limited

Vs.

M/s. Bengal Industrial Corporation & Ors.

Mr. Samrat Chowdhury

Mr. Sandip Das

... for the appellant

Mr. Arindam Chattopadhyay

...for the respondent no. 1

Re: CAN 5361 of 2020 (Sec. 5)

The Section 5 application (CAN 5361 of 2020) is allowed condoning the delay.

As the issue is very short, we have heard out the appeal, by consent of learned counsel.

We dispose of the same by the following order:-

The respondent no. 1 is the licensee of a car parking space. The space is owned by the respondent no. 2, but the licence is granted by the appellant. This licence was terminated by the appellant by a notice dated 19th June, 2020 with effect from 1st July, 2020. The appellant alleges default in payment of licence fee from

February, 2020, whereas the respondent no. 1 says that the default is only from April, 2020. The licence fee is Rs. 4720/- per month.

The period of default is contentious.

We direct the respondent no. 1 to pay Rs. 45,000/- ad hoc to the appellant on account of arrear licence fee without prejudice to the rights and contentions of the parties in the suit.

This respondent will keep on paying the current licence fee at the rate of Rs. 4720/- per month to the appellant in advance from September, 2020 payable by the 15th of each month. Upon payment of the above arrear and payment of the current fee for September, 2020, the appellant will allow the first respondent no. 1 to use the said car parking space again without prejudice to the rights and contentions of the parties in the suit.

In default, the appellant will be at liberty to approach the learned court below for removal of the car from the car parking space.

The learned court below is requested to dispose of the interim application on the basis of this order and pass necessary order expediting the suit.

The appeal (FMAT 359 of 2020) along with the connected applications (CAN 5359 of 2020 and CAN 5360 of 2020) are disposed of by this order.

(I. P. Mukerji,J.)

(Md. Nizamuddin,J.)