

**28.01.2020**  
ns/53  
Ct. No.01

**CALCUTTA HIGH COURT**

*In the Circuit Bench at Jalpaiguri*

**I.A. No.1 of 2019**  
**in**  
**F.M.A.T. No.55 of 2019**

***Asha Bansal***  
**-Vs-**  
***Ajit Kumar Prasad & Anr.***

Mr. Joyjit Choudhury,  
Mr. Rohit Agarwal,  
Mr. Ajay Singhal  
... for appellant.

Mr. Bikramaditya Ghosh  
... for respondents.

This appeal is admitted.

Two points arise for adjudication in this appeal. First is whether interlocutory injunction can be obtained on basis of an agreement insufficiently stamped? Second is whether the document, urged to be an agreement, is an agreement at all?

Parties have appeared and we take up the appeal for hearing and disposal, on notice of appeal waived and all formalities dispensed with.

Mr. Choudhury, learned advocate appears on behalf of appellant and submits, the agreement is disclosed at page 27 of the stay application. It contains all the ingredients for it to be seen as an agreement for sale of immovable property. It is not stamped. He relies on **judgment dated 11<sup>th</sup> September, 2017** of coordinate

Bench in, inter alia, **FMAT 813 of 2017 (M/s. Prosperous Vintrade Pvt. Ltd. -Versus - Ritwick Mukherjee)** to submit, his client is ready to put in, inter alia, required stamp as per direction made in said judgment.

Mr. Ghosh, learned advocate appears on behalf of respondents and submits, the document disclosed at page 27 is not an agreement. This is because plaintiff by letter dated 6<sup>th</sup> August, 2019, caused to be written, had clearly said that formal deed of agreement for sale was to be prepared within 10 days on stamp paper and same would be executed after due scrutiny and verification. Formal agreement was not executed. If the document at page 27 is directed to be stamped and other charges recovered, that would prejudice his clients' contention of there being no agreement.

We are satisfied that the appeal can be disposed of as covered by **M/s. Prosperous Vintrade Pvt. Ltd.** (supra). Respondents need have no apprehension of prejudice as they can urge their contention before trial Court upon appellant complying with following direction, for the injunction application to be dealt with by said Court. The direction is, the suit be regularised on deposit of deficit stamp duty and / or the impounding fees on the document dated 3<sup>rd</sup> July, 2019, treated to be an agreement for sale for that purpose. Once that is done, trial Court will consider plaintiff's contention on temporary injunction on merits. Appellant will produce

the document, within seven days from date, before trial Court, on notice to respondents. Said Court will take expeditious steps regarding regularization of the suit. On compliance by plaintiff, regarding regularization of the suit, impugned order passed on the injunction application, disposing of it, will stand set aside. The injunction application will stand restored to trial Court for adjudication.

We make it clear, we have not gone into merits of the case for injunction and are disposing of this appeal in giving above directions for regularizing the suit.

The appeal stands disposed of.

**(Arindam Sinha, J.)**

**(Biswajit Basu, J.)**