

**FMAT 84 of 2021
With
CAN 1 of 2021**

**Sachin Kumar Sharma
Vs.
Lakshman Prasad Agarwal & Anr.**

(Through Video Conference)

Mr. Aniruddha Chatterjee
Mr. Rahul Karmakar
Mr. Abirlal Chakraborti

... ... for the appellant

This appeal is directed against an order dated 21st January, 2021 by which the learned trial Judge after vacating the interim order failed to consider an application filed later in the day for extension of ad interim order. The petition supported by an affidavit praying for extension of ad interim order was kept with the record.

It appears that the appellant has been enjoying an order of status quo since 25th September, 2019 and during the pandemic situation in view of the order passed by the Hon'ble Supreme Court in Suo Motu Writ Petition (Civil) No. 3 of 2020 all orders that had expired during the period of pandemic were automatically extended and it cannot be disputed that as of 21st January, 2021 the benefit of the said order as well as the orders passed by a Full Bench on 7th August, 2020 as on that date stands automatically extended.

In view thereof, the appellant shall be entitled to automatic extension of the interim order unless such prayer is opposed by the respondents/defendant. It does

not appear from the order that the respondents/defendants were present and opposed the prayer for extension of ad interim order on the date the appellant/plaintiff was absent. The situation could have been different had the respondents/defendants were present and Court carried an impression that the appellant/plaintiff was deliberately avoiding the Court.

On such consideration, we support the interim order passed on 25th September, 2019.

We have been informed that an application for rejection of plaint is pending the ad interim order. We request the learned trial Judge to dispose of the injunction application preferably within a period of 10 weeks from the date of communication of this order.

The interim order shall remain operative for a period of 12 weeks and in the event the application could not be disposed of within the aforesaid period for reasons to be recorded by the learned trial Judge the interim order can be extended suitably.

The appellant shall immediately communicate this order to the learned trial Judge and also upon the defendants in the suit. The learned trial Judge shall make all endeavour to dispose of both the matters within the aforesaid period.

The appeal and the connection application is disposed of.

Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)