

9.3.2021

ASR

1.

FMA 320 of 2021

With

CAN 1 of 2021

Smt. Vineeta Singhania

Versus

Millennium Projects Private Limited & Ors.

Mr. Debnath Ghosh

Mr. Aniruddha Mitra

Mr. Rajdeep Bhattacharya

.....for the appellant

Mr. Rajarshi Dutta

Mr. Aritra Basu

Ms. Debjani Chatterjee

.....for the respondents

This appeal from an ex parte ad interim order dated 24th December, 2020 passed by the learned court below granting an injunction against the appellant/defendant, is formally admitted.

Two points are very important. We find that the returnable date of the application was 25th January, 2021 before the learned court below, where the appellant/defendant would be heard before further continuance of the impugned order.

Secondly, Mr. Debnath Ghosh, learned counsel for the appellant submits that this dispute is under the Commercial Court's Act, 2015 and hence the learned civil court has no jurisdiction to entertain try and determine the suit.

Dispensing with all formalities we heard the appeal.

We dispose of the same by directing the interim application to be heard by the learned court below at the earliest. The point of jurisdiction of the Court shall have to be decided prima facie first. For a period of three weeks from date or until further orders of the learned court below both the parties shall maintain status quo regarding ownership and possession of the subject property. We are constrained to observe that there is a serious dispute regarding possession. Both the parties make rival claims with regard to possession. In those circumstances, we direct that neither party shall dispossess the other.

Both the appeal (FMA 320 of 2021) and the connected application (CAN 1 of 2021) are disposed of by this order.

(I. P. Mukerji,J.)

(Md. Nizamuddin,J)