

02-02-2021
Item no.1
Subrata

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side
(Commercial Division)

FMAT No.289 of 2020
Vasudevay Vanijya LLP.

-vs-

Chandrali Builders & Developers Private Limited

Mr. Dipankar Pal
Ms. Kakali Naskar

...for the appellant

This is an intended appeal against an order dated 6th December 2019 passed by the learned Additional District Judge, Fast Track Court No.2 at Barasat, North 24 Parganas refusing an ad interim ex parte order in an application made under section 9 of the Arbitration and Conciliation Act, 1996 made by the appellant-petitioner.

The alleged right of the appellant-petitioner arises out of a development agreement. It claims to be the developer under that agreement. The owner is in possession of the property. The ad interim ex parte order, it prayed for, was an injunction restraining the owner from transferring or parting with the possession or otherwise dealing with the property.

In our view, the learned judge has very rightly refused the injunction order at that stage and directed that the case would be considered in the presence of the respondent.

We find no infirmity in that order. Let a fresh notice be issued by the learned court below to the respondent and an early date for consideration of the said application be fixed.

We observe that any observation made by the learned judge at the ex parte ad interim stage would not be taken into account in considering the case of the petitioner in the presence of the respondent.

This appeal is disposed of by this order, dispensing with all formalities.

[I.P. Mukerji, J]

[Subhasis Dasgupta, J]