

16.12.2021  
1 to 4  
ns/pg Ct.16

**F.M.A. 533 of 2021  
With  
I.A. No. CAN 1 of 2021  
Anamika Lodha  
Vs.  
Nandini Nopany & Ors.**

**with**

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**With**

**F.M.A. 535 of 2021  
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I.A. No. CAN 1 of 2021  
Anamika Lodha  
Vs.  
Nandini Nopany & Ors.**

**With**

**F.M.A. 536 of 2021  
With  
I.A. No. CAN 1 of 2021  
Anamika Lodha  
Vs.  
Nandini Nopany & Ors.**

Mr. Abhrajit Mitra, Sr. Adv.,  
Mr. Ranjan Bachawat, Sr. Adv.,  
Mr. Abhratosh Majumder, Sr. Adv.,  
Mr. Biswajit Kumar,  
Mr. Subhankar Nag,  
Ms. Iram Hasan,  
Mr. Sanket Sarangi ... for the appellant  
(in all the matters).

Mr. Soumabho Ghose,

Mr. Pratik Mukherjee,  
 Mr. Akash Bajaj  
 Ms. Vaibhavi Pandey . . . for the respondent no.1.

Mr. L. K. Gupta, Sr. Adv.,  
 Mr. Anirban Ray,  
 Mr. Kallol Basu,  
 Mr. Rajarshi Dutta,  
 Mr. Shankarshan Sarkar,  
 Mr. Shwetaank Nigam,  
 Mr. I. N. Mukherjee ... for the respondent no.2 & 4.

Mr. Debanjan Mandal,  
 Mr. Sanjib Trivedi,  
 Ms. Mahima Chobra .. for the respondent no.3.

Since the issues involved in this batch of appeals are common, all the appeals are being heard analogously and are disposed of by this common order.

These appeals by the plaintiff in Title Suit Nos.357 to 360 of 2021 on the file of the VII<sup>th</sup> Bench, City Civil Court at Calcutta are directed against the order dated 10<sup>th</sup> March, 2021 passed by the learned Trial Court refusing to grant an ad-interim injunction, as sought for. The appellant moved an application for temporary injunction to restrain the respondents / defendants from taking any step or further step on the basis of the proposed resolutions dated 4<sup>th</sup> March, 2021 and also from giving any effect to and / or implementing the said proposed resolutions dated 4<sup>th</sup> March, 2021. During the course of argument, it appears that the counsel for the appellant / plaintiff prayed for an order of status quo on the date of filing of the title suit with regard to the

composition of trustees and members of the Managing Committee of M.P. Birla Institute of Fundamental Research, to be maintained. The learned Trial Court heard the learned counsel for the appellant / plaintiff and has by order dated 10<sup>th</sup> March, 2021 declined to grant an ad-interim order of injunction.

The Court opined that the plaintiff is the wife of the defendant no.3 for whose removal the proposed resolutions were sent to her by post and she raised objection in reply. Therefore, the Court was of the view that no prima facie case has been made out to substantiate any urgency or grave irreparable loss and injury to the appellant / plaintiff in case any order of ad-interim injunction sought for by the plaintiff is refused at the relevant point of time. Therefore, the Court held that in the interest of justice, opportunity of being heard must be afforded to the respondents / defendants before adjudicating the issues pleaded or passing any ad interim order. Therefore, the prayer for ad-interim injunction was refused at the relevant stage. Notice has been issued to the respondents / defendants calling upon them to state as to why injunction shall not be granted in favour of the plaintiff within 30 days from the date of receipt of the notice.

These appeals have been filed before this Court on 18<sup>th</sup> March, 2021 and have been listed before us today

under the caption “Assigned Matters” pursuant to the orders passed by the Hon’ble Chief Justice.

The learned senior counsel for respondents / defendants submitted that the copies of the relevant papers and documents have not been served on the respondents / defendants and unless the papers and documents are served along with the injunction application and the plaint, they would not be in a position to put forth their objection or respond to the show cause issued by the learned Trial Court.

As noticed above, the order impugned is dated 10<sup>th</sup> March, 2021 and it is almost going to be a year since the order was passed. Therefore, we are of the considered view that ends of justice would be met if the learned Trial Court is requested to take up the temporary injunction application affording an opportunity to the respondents / defendants to file their objections after copies of the plaint, injunction application and the relevant documents are served and thereafter grant liberty to the plaintiff to file a reply, if any, within a reasonable time and hear and dispose of the application at the earliest, preferably on or before 28<sup>th</sup> February, 2022.

The learned senior counsel appearing for the appellant submitted that the time schedule should be fixed for filing the written objections within a time frame. However, this can be directed to be done provided, the copies of all the relevant papers, as mentioned above, are

served on the counsel for the respondents / defendants. The learned senior counsel appearing for the appellant / plaintiff undertakes to carry out that exercise not later than 5.00 p.m. on 17<sup>th</sup> December, 2021. The respondents / defendants shall file their written objections, if any, not later than 10<sup>th</sup> January, 2022 and reply, if any, to be filed by the appellant/plaintiff by 17<sup>th</sup> January, 2022 with an advance copy to the respondents / defendants.

It is made clear that the service of documents, affidavits, etc. shall on the learned counsels, who entered appearance on behalf of the parties.

We further make it clear that we have not expressed any opinion on the merits of the matter and it is for the learned Trial Court to take a decision on merits in accordance with law.

**F.M.A. 533 of 2021 with I.A. No. CAN 1 of 2021, F.M.A. 534 of 2021 with I.A. No. CAN 1 of 2021, F.M.A. 535 of 2021 with I.A. No. CAN 1 of 2021 and F.M.A. 536 of 2021 with I.A. No. CAN 1 of 2021** are disposed of.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties expeditiously upon compliance of all legal formalities.

( T. S. Sivagnanam, J.)

(Sabyasachi Bhattacharyya, J.)