

22.11.2021
Ct. No.15
Sl. No.17
akd

F.M.A.T. 288 of 2021 *[via video conference]*
CAN 1 of 2021

[Goutam Sarkar -Vs- Dipak Sarkar & Ors.]

Mr. Farooque Ali
Sk. Shahrukh Raja
Mr. Afsar Ali
Mr. Arham Reza

... .. for the appellant

Learned advocate for the appellant is directed to cure the defects in course of the day.

The appeal is directed against order dated 16th March, 2021 in T.S. No. 237 of 2021 passed by the learned Civil Judge (Senior Division), 1st Court, Barasat whereby the trial court declined to pass the ad-interim order of injunction over schedule 'B' property.

Perusal of the plaint would show that the plaintiff has sought for declaration that he is the owner of the schedule 'B' property and the said property had been purchased from the fund and/or business of the appellant-plaintiff conducted and/or run from schedule 'A' property. Further perusal of the plaint shows that the schedule 'B' property is admittedly standing in the name of the respondent-defendant no.1.

It is settled law that ad-interim order of injunction would require the plaintiff not only to make out a strong prima facie case but also plead extreme urgency and irreparable injury which cannot be adequately compensated through money.

In the aforesaid factual backdrop where the schedule 'B' property is standing in the name of the defendant and no case of extreme urgency was made out, we are of the considered opinion that the court below rightly denied the ad-interim order of injunction and fixed the injunction application for hearing upon giving notice to the respondents.

The appeal is accordingly, dismissed.

In view of disposal of the appeal, the connected application being CAN 1 of 2021 also stands disposed of.

There shall be no order as to costs.

Urgent xerox certified copy of this order, if applied for, be given to the appellant on usual undertaking.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)