

28.06.2021
KC(14)

F.M.A.T. 352 of 2021
Kaushik Sen and Anr.
-versus-
Matribhumi Developers Pvt. Ltd. and Ors.
With
CAN 1 of 2021

(Via Video Conference)

Mr. Debjit Mukherjee,
Mr. Kaustav Bhattacharya.....For the appellants.

An affidavit of service is on record. Mr. Mukherjee, learned advocate for the appellants submits that the contesting respondent nos. 1 and 2 have been served. The other respondents are supporting the appellants/plaintiffs.

As the point involved is very short, we propose to dispose of this appeal, dispensing with all formalities.

That is more so as this is an appeal from an ex-parte ad-interim order dated 6th April, 2021 made by the learned court below refusing an interim order, directing issuance of show cause and posting of the matter after a fortnight from the date of the order. The application is due to be listed before the learned court below shortly.

The cause of grievance of the appellants is this, according to Mr. Mukherjee. The appellants/plaintiffs and the respondents/ defendants 2 to 12 are the joint owners of the subject property. They entered into a development agreement with the respondent/defendant

no. 13. This developer has instituted a suit in this court to enforce that agreement. Meanwhile, the defendant no. 2 has entered into a purported agreement with the defendant no. 1 by forging the signatures of the other parties and that the defendant no. 1 is now attempting to take possession of the subject property and develop the same.

In the absence of the respondents there is no contradiction of this allegation.

In those circumstances, we direct that the interim application is to be heard out by the learned court below as expeditiously as possible. Till the disposal of the application status quo regarding transfer, creation of encumbrance and possession with respect of the subject property is to be maintained by the parties.

Any observation made in this order is to be treated as tentative by the learned court below.

This appeal (F.M.A.T. 352 of 2021) and the connected application (CAN 1 of 2021) are disposed of.

(I.P. MUKERJI, J.)

(ANIRUDDHA ROY, J.)