

09-08-2021
Item no.1
Subrata

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction

FMAT No.442 of 2021
Saltee Infrastructure Limited

-vs-

Dhar Realtors Private Limited & Ors.

with

CAN No.1 of 2021

and

CAN No.2 of 2021

Mr. Aniruddha Chatterjee, adv
Mr. Rahul Karmakar, adv.
Mr. Asif Sohail Tarafdar, adv. ...for the appellant

Mr. Ashoke Banerjee, sr. adv.
Mr. Shyamal Chakraborty, adv.
Mr. Shuvam Khan, adv. ... for respondent no.1

Mr. Arindam Pal, adv. ...for the intervenor

We admit the appeal.

As the point involved is very short, dispensing with all formalities, we propose to dispose of the appeal and the connected applications by the following order.

This appeal arises out of a dispute in a development agreement concerning an immovable property.

By an ex parte interim order dated 6th July 2021 in an application under section 9 of the Arbitration and Conciliation Act, 1996, the appellant has been directed to “maintain status quo as regard the nature, character and possession of the suit property as described in the body of the petition for a period of one month from this date.” Direction for issuance of notices was also issued and 6th August 2021 was fixed as the returnable date.

It is submitted before us that on the returnable date, the interim order was extended and that the application was posted for consideration on 24th August 2021 in the presence of the parties.

In our view, on the facts pleaded before the learned court below, the learned judge has exercised her discretion in passing the interim order dated 6th July 2021. This exercise of discretion is not ordinarily interfered with by the appellate court, unless there is a palpable error or perversity.

We are of the view that the ends of justice would be subserved if the interim application is heard out in the learned court below as expeditiously as possible by limiting the duration of the interim order.

At this point of time, we observe on the submission of Mr Chatterjee, learned advocate for the appellant, that the dispute is commercial and that the court of the learned District Judge, Alipore does not have the jurisdiction to entertain, try and determine the subject application under section 9 of the Arbitration and Conciliation Act, 1996.

Hence we direct that in the section 9 application the question of jurisdiction of the court shall be gone into first. The application, after affidavits, should positively be disposed of by 4th October 2021. The interim order may be extended by the learned court below, but not beyond 4th October 2021. All points are kept open before the learned court below.

In view of the above, the appeal and the connected applications – CAN No.1 of 2021 and CAN No.2 of 2021 – are disposed of.

[I.P. Mukerji, J]

[Aniruddha Roy, J]

