

DL. March 12,
17. 2021

F.M.A.T. 631 of 2018

The appellants are not represented either physically or on virtual mode.

On the earlier occasion, the appellants were also not represented. The matter was adjourned till March 12, 2021 to enable the appellants to remove the defects as reported by the Stamp Reporter in his report dated July 21, 2018.

It is reported by the stamp reporter that the appeal is time barred in so far as it relates to order dated May 1, 2018.

The orders under challenge in this appeal are the order dated May 1, 2018 and the order dated June 7, 2018 passed by the learned Judge, Tenth Bench, City Civil Court at Calcutta, in Title Suit No. 544 of 2018. The order dated June 7, 2018 is only an extension of ex parte ad interim order of injunction passed earlier. It appears that the ad interim order of injunction was extended from time to time and the status report of the present suit shows that it was extended last upto March 18, 2021.

From the order sheets annexed to the memorandum of appeal, it appears that the defendants/appellants have already entered appearance in the suit.

We, therefore, feel that justice will be sub-served if this appeal is disposed of with a request to the learned trial judge to dispose of the application for temporary injunction as expeditiously as possible, since the application is pending for almost three years.

In view of the above, the learned Judge, Tenth Bench, City Civil Court at Calcutta is requested to take up hearing of the application for temporary injunction on the next date fixed, that is,

on March 18, 2021, and to dispose of the same as expeditiously as possible upon giving opportunities to the defendants/appellants to file written objection to the application for temporary injunction, if not filed yet.

The learned trial judge shall make all endeavours to dispose of the application for temporary injunction preferably within a period of eight weeks from the date of communication of this order to him.

By way of abundant caution, we make it clear that we have not gone into the merits of the claim and the counter claim of the parties involved either in the suit or in the application for temporary injunction and all points are left open to be considered by the learned trial judge on merits and in accordance with law.

The learned trial judge is requested to consider the application for temporary injunction independently and without being influenced by the ad interim order of injunction passed by him inasmuch as the scope to grant an ad interim order of injunction and the scope to grant temporary injunction are different.

With the aforesaid observations, the appeal and the connected application for stay filed under CAN 4363 of 2018 are disposed of even at the admission stage.

We make no order as to costs.

Office is directed to communicate this order to the office of the learned trial judge by Monday next.

(Soumen Sen, J.)

(Subhasis Dasgupta, J.)