

DI. March 9,
22. 2021

F.M.A. 654 of 2019

Mr. Kaushik Dey,
Mr. Avijit Dey,
...for the appellant.

Mr. Sounak Bhattacharya,
...for the respondent.

Re: CAN 5861 of 2019 (injunction)
filed on June 27, 2019
and
CAN 2 of 2020 (modification)
filed on November 20, 2020.

Shri Rajib Nahar, the Managing Partner of the appellant company and duly authorised by the appellant, has affirmed an affidavit of undertaking on January 22, 2021, which is placed before us for considering as to whether the said affidavit is in terms of our order dated January 18, 2021 or not.

The said affidavit of undertaking has been duly served upon Mr. Sounak Bhattacharya, learned advocate appearing on behalf of the respondent on January 25, 2021. Photostat copy of the letter showing service on Mr. Bhattacharya produced before us is taken on record.

In paragraph 2(e) of the said affidavit it has been undertaken as follows :-

“I undertake that I will not alienate and/or deal with and/or dispose of 400 Sq.ft. area within the sanctioned area of 6000 Sq.ft. in which the construction is in progress pursuant to the building sanctioned plan and also pursuant to the order dated 23rd September, 2019 passed by the Hon’ble Division Bench of this Hon’ble

Court till the proposed room measuring about 400 Sq.ft. on the terrace of Block E with temporary structure to be used as the office or like in the terrace is made ready and is handed over to the Association namely Gulmohor Flat Owners Welfare Association of Block Nos. B, C, D & E of the premises no. 48A, Indian Mirror Street, Kolkata-700013.”

The said undertaking is in accordance with the order dated January 18, 2021. We accept the said undertaking.

On the basis of the said undertaking, the instant appeal and the connected applications are disposed of even at the admission stage.

However, the parties may approach the trial court for disposal of the suit on the basis of the order passed by us.

There will be no order as to costs.

(Soumen Sen, J.)

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(Subhasis Dasgupta, J.)