

07.09.2021
KC(55)

F.M.A.T. 503 of 2021
P.K.B. Tea Exports and Marketing Pvt. Ltd.
-versus-
Koyal Chowdhury and Anr.
With
CAN 1 of 2021
(Via Video Conference)

Mr. Aniruddha Chatterjee,
Mr. Rudrajit Sarkar,
Mr. Shaunak Bhattacharya,
Mr. Aditya Kundalia,
Mr. Indradeep Basu.....For the appellant.

Mr. Buddhadeb Ghosal,
Mr. Souvik Nandy.....For the respondents.

The impugned order dated 17th August, 2021 of the learned court below, on the face of it cannot be sustained. It is for this reason that we have proposed to hear out this appeal today dispensing with all formalities.

That the appellant/plaintiff did not produce or rely upon the ejectment notice duly served, is in our opinion, not sufficient reason at all to refuse the application for injunction.

We set aside the order dated 17th August, 2021 and remand the entire matter to the learned court below to consider the interim application strictly on facts and in accordance with law and to pass a reasoned order disposing of the same after hearing both parties.

We make it clear that we have not examined the merits of the matter which are kept open before the learned court below.

Learned counsel for the respondents assures this court that till the learned court below considers and disposes of the interim application, no further third party interest will be created in the property in question.

The appeal (F.M.A.T. 503 of 2021) and the connected application (CAN 1 of 2021) are disposed of.

(I.P. MUKERJI, J.)

(ANIRUDDHA ROY, J.)