

23.12.2021
Item No.4
Crt. No.11.
KB

**FMA 1145 of 2021
with
IA No. CAN 1 of 2021**

**Kanai Lal Sarkar
-Vs-
Sixth Sense Construction
Advisory Private Limited & Ors.**

(Via Video Conference)

Ms. Manju Agarwal
Ms. Geetika Agarwal
... For the appellant.

Mr. Jishnu Chowdhury
Mr. Suddhastava Banerjee
Ms. Radhika Singh
Ms. Ayushi Kundu
... For the Respondent Nos.1, 2 & 3.

Party/parties is/are represented in the order of
their name/names as printed above in the cause title.

Under challenge in this appeal is the order of the
Learned Trial Court dated 29th July, 2021 in Title Suit
No.468 of 2021, which is a suit for foreclosure and sale.

The Defendant No.1 is the appellant.

The Respondent Nos.1, 2 and 3 in this appeal are
the plaintiffs before the Learned Trial Court in Title Suit
No.468 of 2021.

The Learned Trial Court noticed that in respect of
the suit property an equitable mortgage was created by
the appellant and his sons in favour of the plaintiffs.

Against the mortgage, a sum of money was extended to the appellant and his sons by the plaintiffs by way of a loan. A loan agreement is also said to have been entered into by and between the conducting parties.

Learned Trial Court by the order impugned restrained the Defendants/the present Respondent Nos.1, 2 and 3 from creating any third party interest in respect of Schedule 'A' of the suit property till the next date.

Having heard the parties and considering the materials placed, this Court finds no reason to intervene in the order of the Learned Trial Court granting a limited *ad-interim* injunction in favour of the plaintiffs/the Respondent Nos.1, 2 and 3 to this appeal for the purpose of preserving the subject matter of the suit, i.e. the suit property.

Accordingly, this appeal and the connected application are not detained.

The only order that this Court intends to pass is to request the Learned Trial Court to decide the Injunction Application without granting unnecessary adjournments and preferably by the end of January, 2022 subject to its board. Needless to add, the Injunction Application shall be decided on its own merits.

Both **FMA 1145 of 2021** with **I.A. No. CAN 1 of 2021** stand accordingly **disposed of**.

All parties to act in terms of a copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Krishna Rao, J.)

(Subrata Talukdar, J.)