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Ct-08

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FMAT 579 of 2021

with

I.A No. CAN 1 of 2021

Smt. Purnima Das

Vs.

Sri Santosh Das & Ors.

Mr. Lutful Haque
Mr. Golam Kasim Chowdhury
Mr. Tarun Kanti Ghosh
... For the Appellant

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
Ms. Dipanwita Ganguly
Mr. K. Bhattacharya
... For the Respondents

In view of our earlier order the original registered development agreement is produced before us, wherefrom it appears that the appellant has put his signature, which is a registered instrument. The said registered development agreement has not yet been cancelled by any competent court of law.

It is argued on behalf of the appellant that the appellant is carrying on business from the suit property and a space is being utilised by her for business purpose, but there is nothing on record to show that the appellant is carrying any business from the said property. However, prima facie evidence shows that she is in possession of a portion of the property.

Learned counsel appearing on behalf of the respondents submits that they have almost completed the construction and some of the co-sharers have already taken possession in their respective portions.

Under such circumstances, we dispose of this appeal by restraining the respondent nos. 11 and 12 from disturbing the possession in respect of 'B' scheduled property of the appellant. There shall be no embargo to complete the construction work in terms of the sanctioned plan.

This interim order shall continue till the injunction petition is disposed of before the trial court.

We direct the learned Civil Judge, Senior Division, 2nd Court, Howrah to dispose of the injunction petition as expeditiously as possible, preferably within a period of twelve weeks from date.

The appellant shall serve a copy of the injunction petition and a copy of the plaint upon Mr. Khan Arif Hassan, Mob-9830533422, Howrah Judges' Court, who is representing the defendants before the trial court, within one week from date.

Written objection to the injunction petition shall be filed on or before 7th January, 2022. Reply, if any, be filed by 21st January, 2022.

In view of the disposal of the appeal, CAN 1 of 2021 is also disposed of.

There shall be no order as to costs.

(Ajoy Kumar Mukherjee,J.)

(Soumen Sen, J.)

