

23.12.2021
Item No. 12
Crt.No.11
b.r.

FMAT 621 of 2021
with
IA No. CAN 1 of 2021, CAN 2 of 2021

Manabendra Chakraborty
-vs-
Rahul Poddar & Ors.

(Via video conference)

Mr. Sudip Deb
Mr. Riju Ghosh
Mr. Sumitava Chakraborty
Ms. Sayantika De
..... For the appellant.

Mr. Soumen Bhattacharjee
Mr. Tanmoy Kumar Dey
..... For the respondent no.11

This is an appeal against the order passed by the learned Civil Judge (Senior Division), 3rd Court at Barasat dated 1st of October, 2021 in Title Suit No. 703 of 2021 wherein the learned trial Court had rejected the prayer for granted ad interim injunction. The appellant had also filed an application being CAN No. 02 of 2021 for substitution of legal heirs of defendant/respondent No.3 and legal heirs of defendant/respondent No.6 with condonation of delay.

The Ld. Counsel for the appellant as well as the Ld. Counsel for the respondent no.11 have informed this Court that they have arrived at a settlement and the appeal can be disposed of in terms of the settlement arrived between the parties.

Considering the submissions made by the respective parties, this Court feels that it would be appropriate to

remand the matter back to the learned Court of Civil Judge (Senior Division), 3rd Court for deciding the application for substitution as well as the settlement arrived between the parties.

The learned Court below is directed to dispose of the substituted application as well as the settlement arrived between the parties in accordance with law.

In the meantime, the interim order passed by this Hon'ble Court shall continue.

The learned Court below is requested to expedite the matter and to dispose of same preferably within a period of two months from the date of receipt of this order. However, it is made clear that in case the parties fail to settle the dispute, the Ld. Trial Court shall dispose of the injunction application on its merit after giving an opportunity of hearing to all parties.

The appeal being **FMAT 621 of 2021** and connected applications being **CAN 1 of 2021** and **CAN 2 of 2021** stand **disposed of.**

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

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Krishna Rao, J.)

(Subrata Talukdar, J.)