

23.12.2021
Item No.9
Crt. No.11.
KB

**FMA 1340 of 2021
with
IA No. CAN 1 of 2021**

**Dipak Kumar Banerjee
-Vs-
Swarup Bhattacharjee**

(Via Video Conference

Mr. Sukanta Das
... For the appellant.

Affidavit of Service filed by the appellant is kept on record. In spite of service of notice none appeared on behalf of the respondent.

This is an appeal against the ad-interim injunction passed by the Learned Civil Judge (Senior Division), 2nd Court at Paschim Medinipur dated 1st October, 2021 in O.S. No.15 of 2021.

The counsel for the appellant has argued that as per the Notification issued by the High Court dt. 8.11.2019 the Civil Judge (Senior Division), 1st Court is having jurisdiction to entertain the suit if the suit property is situated at Paschim Medinipur District and the suit property is also situated at Paschim Medinipur District. But the ad-interim order has been passed by the Learned Civil Judge (Senior Division), 2nd Court which the Ld. Court is not having any jurisdiction.

This Court has considered the submissions made by the appellant. It appears from record that the Ld. trial court had passed an ad-interim injunction. The appellant being the defendant in the suit is having an opportunity to agitate the said issue before the Ld. trial court.

Let the appellant approach the learned Trial Court below by raising all points.

In case the appellant is taken the point of jurisdiction, the same may be decided by the learned trial court first and thereafter only if it is found that the Ld. Trial Court is having jurisdiction then the matter may be decided on merit.

The Ld. Civil Judge (Sr. Division), 2nd Court is directed to dispose of the injunction application within a period of one month from the date of receipt of the copy of this order without giving unnecessary adjournment to the parties.

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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.)