

DI. March 12,
18. 2021

F.M.A.T. 444 of 2020

Mr. Mitul Chakraborty,
...for the appellant.

Mr. Amritlal Dhar,
Ms. Arunima Lala,
...for the respondent.

The appellant is aggrieved by an ex parte ad interim order of injunction passed by the learned Judge in-charge, Twelfth Bench, City Civil Court at Calcutta, in Title Suit No. 654 of 2020.

The plaintiff/respondent filed the suit alleging that the defendant/appellant was an ex-contractual/casual labourer engaged on the basis of “no work no pay” basis and on oral appointment. The plaintiff/respondent was assigned to do certain jobs by the proforma defendant and for this purpose the defendant was not engaged by the plaintiff on “no work no pay” basis. The appellant, however, insisted for appointment on regular basis and it is alleged that the appellant is causing let and hindrances to the smooth functioning of the business of the plaintiff. The plaintiff in paragraph 6 of the supplementary affidavit has stated the places where the defendant is causing such disturbances.

The learned trial judge, on the basis of the materials made available in the injunction application, passed an ad interim order of injunction whereby the present appellant and his men, agents and associates were restrained from interfering or disturbing the plaintiff’s job or work at the site as well as the plaintiff’s office described in the schedule to the plaint till October 14, 2020.

This appeal has been preferred on October 15, 2020.

The ad interim order of injunction, in our view, is well founded having regard to the nature of employment of the appellant as borne out from the record. We have been informed by the parties that the interim order passed on September 15, 2020 has been extended from time to time and the matter is fixed in the month of March 2021.

In view of the fact that as on date the appeal has become infructuous since the order impugned has already lost its force by the time the appeal has been filed, we dispose of this appeal by directing the trial court to dispose of the application for temporary injunction on merits as expeditiously as possible, preferably within a period of eight weeks from the date of communication of this order or completion of pleadings in the application for temporary injunction, whichever is later.

The learned trial judge is requested to consider the application for temporary injunction independently and in accordance with law without being influenced by any of the observations made by us.

At this stage, the learned advocate appearing on behalf of the appellant submits that the suit is not maintainable due to lack of territorial jurisdiction. The learned trial judge shall consider such issue, if raised in the written objection, while disposing of the application for temporary injunction.

With the aforesaid observations, the appeal and the connected application for stay filed under CAN 1 of 2020 are disposed of even at the admission stage.

We make no order as to costs.

Office is directed to communicate this order to the office of the learned trial judge by Wednesday next.

(Soumen Sen, J.)

(Subhasis Dasgupta, J.)

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