

06.01.2021

Court No. 02
Item No. DL – 23
nandy

(Appeal Disposed of)

FMAT 462 of 2020

Md. Najiruddin & Ors.
Vs.
Nabirul Haque & Ors.

Mr. Rajdeep Bhattacharya, Advocate
Mr. Nilanjan Pal, Advocate

.....for the Appellants

We do not find any ground to interfere with the impugned order dated September 9, 2020 whereby and whereunder the trial Court refused to pass an ex parte ad interim order of injunction.

It is submitted before us that taking advantage of the situation the defendant nos. 1 and 2 are constructing a Petrol Retail Outlet at the best portion of the property and this will create a obstacle/hurdle at the time passing the final decree as they will claim equity.

We noticed that subsequently defendant nos. 1 and 2 had appeared and the matter is still pending before the trial Court. The main grievance is against the defendant nos. 1 and 2. We thus feel that it would be appropriate that the application for injunction be disposed of expeditiously.

We make it clear that the consideration at the time of refusing an ex parte ad interim order of injunction is different than at the time of disposing of an application for temporary injunction. The order, which we propose to pass hereinafter, shall not cause any prejudice to the aforesaid defendants and, therefore, we feel that no notice is required to be served upon them.

The defendant nos. 1 and 2 are directed to file

affidavit-in-opposition to the injunction application before the trial Court within three weeks from the date of communication of this order. Reply thereto, if any, be filed within a week thereafter.

The trial Court is requested to dispose of the application for temporary injunction within two weeks from the date of expiration of exchange of affidavits.

The appeal being **FMAT 462 of 2020** and the connected application being **CAN 1 of 2020** are **disposed of** accordingly.

(Kausik Chanda, J.)

(Harish Tandon, J.)