

02
as 15.03.2021

**F.M.A.T.575 of 2021
With
CAN 1 of 2020**

**Rajani Poddar & Ors.
Vs.
Vinline Engineering Pvt. Ltd. & Ors.**

Mr. Chayan Gupta,
Mr. Rittick Chowdhury.

...for the Appellants.

Mr. Om Narayan Rai,
Mr. Badal Singh.

...for the Respondents.

Though the matter is listed for 'Extension of Interim Order' but by consent of parties, the appeal itself is taken up for final disposal. At the time of admission of the appeal on 11th January, 2021 this Court passed an ad-interim order restraining the respondents from creating any third party interest or parting with possession either in whole or in part in favour of a third party for a limited period.

This is a suit for recovery of possession filed by the appellants against the defendants/respondents. It appears from the statement made in the plaint that a lease was granted on the basis of a letter dated 23rd July, 2020 for a period of three years, at the initial, lease

rent was Rs.68,250/- payable according to English calendar. According to the plaintiffs, rent was increased from time to time and despite the expiration of the period, the possession was not handed over. Several other reliefs are claimed in the plaint to which we do not want to make any observation as the suit is at the nebulous stage. However, the application for temporary injunction is taken out alleging that the defendants/respondents are trying to sub-let, assign and/or transfer and/or part with possession in favour of a third party of the suit premises and if the third party is created, it would invite an anomalous situation.

The learned Advocate appearing for the defendants/respondents submits that he must be given an opportunity to contest the application for temporary injunction and there is no intention on their part to sub let assign and/or transfer and/or part with possession in favour of the third party of the suit premises.

In view of the above, we do not find that the continuance of the ad-interim order passed by this Court would cause any prejudice to the defendants/respondents. Since the application for temporary injunction is pending before the trial

court, the same is required to be disposed of after affording an opportunity to contest by the defendants/respondents.

Accordingly, the appeal is disposed of in the following manner;

- 1) There shall be an ad-interim order of injunction against the defendants/respondents from sub letting and/or assigning and/or transferring and/or parting with possession of the suit premises to a third party for a period of four months from date or until further order whichever is earlier;
- 2) The defendants/respondents who have appeared before us undertakes to appear before the trial court in course of this week by filing vakalatnama;
- 3) The defendants/respondents are directed to file written objection to the application for temporary injunction within three weeks from date and reply thereto, if any, shall be filed within one week thereafter;
- 4) The trial court shall make an endeavour to dispose of the application for

temporary injunction within two weeks from the date of expiration of the period for exchange of affidavits;

It is, however, made clear that the trial court shall not be swayed by the fact that this Court has passed an ad-interim order of junction, as the consideration at the time of passing such order is different than the consideration at disposing of the application for temporary injunction after exchange of affidavits.

All points including the point relating to maintainability of the suit are kept open and if taken shall be decided by the Court immediately.

In view of the disposal of the appeal, connected application is also disposed of.

(Harish Tandon, J.)

(Abhijit Gangopadhyay, J.)