

**13.12.2021**

Court No.1,  
Item No. 87  
SK

**CALCUTTA HIGH COURT  
IN THE CIRCUIT BENCH AT JALPAIGURI.**

**F.M.A.T. 15 of 2020  
(Via Video Conference)**

**Smt. Jyotsna Roy  
Vs.  
Sri Ranjit Roy & Ors.**

Mr. Hillol Saha Podder.  
....for the appellant.

Defect as pointed out by the Additional Stamp Reporter in his report dated February 22, 2021 is required.

We have heard the learned Counsel for the appellant.

The appeal is arising out of an order refusing to pass an ex parte ad interim order in connection with an application filed by the appellant under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure. The learned Trial Judge amongst others refused to exercise his jurisdiction on the ground that the suit may not be maintainable in absence of certain parties which are according to the learned Single Judge ought to have been made parties in the suit. There are other reasons that the learned Trial Judge declined to pass an ex parte ad interim order. The order is dated December 24, 2019. It does not appear from the impugned order that the discretion was refused arbitrarily. Moreover, almost two years have been elapsed since the impugned order was passed by the learned Trial Judge.

It appears from the record that the matter was fixed on January 22, 2020 for service return of the defendants. On such consideration, we are not inclined to allow the appeal. However, we feel that the application for injunction should be heard and disposed of as expeditiously as possible unless it has been disposed of in the meantime.

Since the injunction application is pending, we request the learned Civil Judge (Senior Division) Jalpaiguri to dispose of the injunction application on merit filed in connection with Title Suit No. 108 of 2019 within six months from the date of communication of this order.

In the event, the injunction application is not ready for procedural reasons, the learned Trial Judge shall be at liberty to proceed mandatorily. The injunction application in connection with the matter as well as the suit shall be disposed of as expeditiously as possible. However, the order is peremptory as restricted to the injunction application.

The appeal is disposed of accordingly.

There shall be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

**(Biswajit Basu, J.)**

**(Soumen Sen, J.)**