

DL. February
19. 2, 2022

Through Video Conference

F.M.A.T 16 of 2022

Kashinath Ash & ors.
Vs.
Shankar Chandra Ash & ors.

Mr. Buddhadeb Ghoshal,
Mr. Prabhat Kumar Singh,
...for the appellants.

This appeal is directed against an order passed by the learned Civil Judge (Senior Division) at Howrah in Title Suit No. 802 of 2021 in connection with an application for temporary injunction.

The learned trial judge refused to pass the ad interim order of injunction in view of the fact that a caveat has been filed in respect of the suit property by the defendant no. 21 and that no interim order could be passed without giving opportunity to the said defendant/caveator.

The learned advocate appearing on behalf of the appellants submits that his clients are aggrieved in not fixing the matter for hearing within a reasonable time.

We find from the impugned order that the matter has been fixed on February 25, 2022 for hearing the application for

temporary injunction.

We do not find any reason to interfere with the order passed by the learned trial judge as in view of the caveat lodged, the matter is to be heard in presence of the caveator. However, in view of the fact that the matter has been fixed on February 25, 2022, we request the learned trial judge to hear the injunction petition on the date fixed.

Needless to presume that objection to the injunction petition has already been filed by the caveator in the meantime as directed by the learned trial judge.

This order shall be communicated to the defendant no. 21 as well as other defendants by registered speed post with acknowledgment due in course of this week and necessary proof of such service upon the defendants shall be filed before the trial court on the next date fixed.

In the event, the learned trial judge is satisfied with the service of communication of this order as also with the service of notice upon the defendants in terms of the impugned order dated December 23, 2021, the learned trial judge shall hear the injunction petition irrespective of the fact whether the defendants appear or had filed any objection in the meantime.

With the aforesaid directions, the appeal is disposed of

even at the admission stage.

In view of disposal of the appeal, nothing remains in the application for injunction filed under CAN 1 of 2022 and the same is also disposed of.

There will be no order as to costs.

Photostat certified copy of this order, if applied for, will be made available to the applicant within a week from the date of putting in the requisites.

(Soumen Sen, J.)

dns

(Ajoy Kumar Mukherjee, J.)